LEAVE FOR EMPLOYEES WITH FAMILY RESPONSIBILITIES

Canada

LEAVE FOR EMPLOYEES WITH FAMILY RESPONSIBILITIES

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I. INTRODUCTION

The changing nature of work and family life has intensified public pressure for effective policies that will assist workers to combine paid employment with family responsibilities. As more and more women join the paid labour force, support systems are evolving as an alternative to the traditional reliance on women in the home to act as primary caregivers for young, elderly, sick, and disabled family members.

Major changes in family structure are of relatively recent origin. It is only within the past 10 or 15 years that Canada has witnessed the decline of the "traditional family" – the one-earner couple where father is the breadwinner and mother remains at home as full-time homemaker. There are now almost as many single-parent families – most of them headed by women – as there are so-called traditional families. Most Canadian children are now being raised in families in which both parents work outside the home.

These developments are common to many industrialized countries. Some of these countries have developed extensive programs of support for parents who must combine paid employment with family responsibilities. Such programs may include maternity leave following the birth of a child, extended maternity or parental leave to enable mothers or fathers to care for a child still in infancy, and child care leave and special rights for parents to care for very young children who are not yet old enough to go to nursery school.

Some countries have also adopted special provisions for working parents that allow them to spend more time with their young children. For example, the Swedish parental insurance program includes a special parental allowance that effectively enables either parent to take six months paid leave to care for a child. The leave may be taken in the form of shorter working hours with no loss of pay (a six-hour working day or half-days off), which may be taken at any time up to and including the child's first year at school at the age of eight.

But, as the federal Task Force on Child Care in its 1986 report pointed out[1], the responsibilities of child rearing impose continuous demands on working parents. Children get sick, for instance, and parents may have to stay at home with them from time to time. Appointments with the dentist, the doctor, or specialists may also mean the parent has to take time off work. And parents whose children are in school may have to meet their children's teachers to review progress.

For some workers, family responsibilities may include the care not only of dependent children but of elderly or disabled adult family members. Trends in long-term care for the elderly are now moving towards deinstitutionalization. There is an increasing emphasis on the desirability of caring for the elderly in their own homes or, at the very least, within their own communities, supported by a network of services.

Community support services are still not well developed, and women, who in the past have been expected to shoulder the burden of this kind of care, are now themselves employed outside the home. If deinstitutionalization and family-based

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[1] Status of Women Canada, *Report of the Task Force on Child Care*. March 1986, p. 320.

care for the elderly and the disabled are to work in practice, support systems for families will be imperative.

In Canada, whether a worker gets time off to attend to family responsibilities such as those described is often left to the discretion of the employee's immediate supervisor. Family responsibility leave generally is not provided for by statute, and few collective agreements give workers the right to this kind of leave. In many cases, employers appear willing to turn a blind eye if employees use their own sick leave entitlement or vacation time to deal with emergency family responsibilities. A few employers make specific provision for employees to do this. But not many have yet provided for family responsibility leave as part of their personnel practices.

This study examines the question of leave for workers with family responsibilities. Family responsibility leave, as we define it here, is the right to take a certain number of days off each year for such family-related responsibilities as caring for a sick child or other dependent family member in an emergency, accompanying a child or an elderly or disabled family member to a medical appointment, making alternative care arrangements for family members when their regular caregivers are sick, attending a child's school or day care centre to meet with teachers or caregivers, and similar family needs.

The report discusses the socio-economic and demographic changes that have created a need for family responsibility leave and reviews the positions provided by various employer and employee organizations and community groups in 1987. It also reviews statutory provisions for family responsibility leave in Canada and elsewhere. The nature of family responsibility leave policies in Canada forms the subject of another section of the report, which presents the results of two surveys of trade unions and employers conducted especially for this study.

The final section of the report presents various options for leave for workers with family responsibilities. Should such leave be left to the collective bargaining process or should it be provided through employment standards legislation? Should it be paid or unpaid? What would the various options cost? From this discussion, the report will draw some conclusions.

II. SOCIO-ECONOMIC AND DEMOGRAPHIC CHANGES

The increased labour force participation of women is well known. Since the 1960s, women have been entering the labour force in ever-increasing numbers. More than 52 percent of adult women (that is, those over 25) are now in the work force, compared with only 31 percent 20 years ago[2]. The most dramatic changes have been in the labour force participation of married women. In the early 1950s, only 11 percent of married women worked outside their homes. By 1986, 56 percent of married women were in the paid work force.[3]

When the 1961 Census of Population was taken, 65 percent of all Canadian families were what has usually been thought of as the "traditional" family with only one wage-earner. By 1971, these families accounted for 32 percent of all families. But when the 1981 Census was taken, husband-and-wife families in which the husband was the only breadwinner accounted for only 16 percent of all families in Canada.[4]

The generation gap

But these numbers do not tell the whole story. There are now very marked differences between women of different generations. Those now under 45 are following quite different work patterns from those of the previous generation of women, who more closely resemble what has been considered the traditional pattern for women.

Most married women in the earlier generation, who are now in the age group 45-64, left the work force when they married or when their first child was born and remained at home as full-time homemakers while their children were young. Society generally expected them to conform to this pattern.

Since fertility rates were much higher when these women were in their childbearing years and the typical woman had four children, many women in this age group spent considerable periods of time outside the paid work force. Increasing numbers of them returned to paid employment, often on a part-time basis, when their children were all in school. The majority of married women in this age group, however, are still full-time homemakers, although their labour force participation rate has increased from 37 percent in 1976 to 46 percent in 1986.[5]

Women in the next generation are following quite a different lifetime work pattern. Fertility rates are now at an all-time low, and women now of childbearing

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[2] Statistics Canada *Historical Labour Force Statistics*. Catalogue 71-201, 1977, p.86; *The Labour Force*. December 1986, Table 56.

[3] Patricia Connelly, *Last Hired, First Fired - Women and the Canadian Work Force*. Table 1.1, p.84; Statistics Canada, *The Labour Force*. December 1986. Table 56.

[4] Monica Townson, *Women's Labour Force Participation Fertility Rates, and the Implications for Economic Development and Government Policy*. Institute for Research on Public Policy: Ottawa, January 1987, Table 3, p.30.

[5] Statistics Canada, *Labour Force Annual Averages*. 1975-1983, Table 3; The Labour Force, December 1986, Table 56.

age have, on average, only 1.67 children.[6] As well, societal expectations are different. Married women generally no longer feel under pressure to remain at home to care for husband and children. Economic constraints have made it essential for most families to have two incomes if they wish to maintain an acceptable standard of living.

More than 70 percent of married women in the age group 20 to 44 (the main childbearing years) now work outside their homes.[7] Twenty years earlier, in 1966, only 29 percent of married women in this age group were labour force participants.[8] This means that the vast majority of women who have children today or who are likely to have them in the future are in the work force.

Most mothers with young children now have paid employment – the majority in full-time jobs. In 1986, for example, 56 percent of mothers whose youngest child was under the age of three participated in the work force, and 66 percent of those who had jobs were employed full-time.[9] In two-parent families in which the husband was employed, more than 58 percent of mothers with children under three were in the work force. In two-parent families in which the youngest child was between the ages of three and five and the husband was employed, 63 percent of mothers were in the work force, and for all types of families in which the youngest child was between three and five, 62 percent of mothers were labour force participants.[10] Women who are single parents have slightly lower rates of labour force participation. In 1986, 42 percent of mothers of children under three, with no husband present, were in the work force.[11]

Labour force participation rates of mothers of young children have been climbing steadily for more than a decade. In 1976, for example, fewer than 32 percent of mothers whose youngest child was under three participated in the work force.[12] The change over a 10-year period represents a 75 percent increase in the labour force participation rate of these women.

The fertility rate connection

These trends are expected to continue. While debate over the main determinants of women's labour force participation continues, there is convincing evidence that the link between fertility and labour force participation has been severed (or at the very least, seriously weakened) so that, even if women were to start having more children, their labour force participation would likely not decline.

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6 Statistics Canada, *Births and Deaths*. Vital Statistics, Vol. 1, 1985. Table 5.

7 Statistics Canada, *The Labour Force*, December 1986, Table 56.

8 Statistics Canada, Labour Force Survey Division, unpublished data.

9 Supra note 4, Table 17, p. 44; Statistics Canada, *The Labour Force*. December 1986, Table 61A.

10 *Ibid.*

11 *Ibid.*

12 Statistics Canada, Labour Force Survey Division. unpublished data.

A 1980 study by Dan Ciuriak and Harvey Sims, who were then at the Department of Finance, concluded that

> the traditional relationship between childbearing and the participation rates of women in the prime childbearing age groups has changed very dramatically.[13]

The group of women born between 1941 and 1950 were the first age group to break the traditional pattern. This was the generation that entered their childbearing years in the 1960s, and it is reasonable to speculate that societal attitudes, which were then undergoing major changes in many areas, had a significant influence on women's roles.

In other countries, where fertility rates are significantly higher than in Canada, women's rates of labour force participation are also much higher. In some countries with low fertility rates, women's labour force participation is also very low. The obvious explanation for these differences is that attitudes to women having paid employment vary from one society to another. In some societies, women are encouraged and expected to be in the work force; in others they are expected to remain in the home. In Canada, there is now widespread acceptance of the fact that the majority of married women do work outside their homes and that they will continue to do so, even if fertility rates increase again.

Elderly and disabled family members

The demographic changes in Canada's elderly population have been thoroughly documented. Over the next 15 to 20 years, the elderly will account for an increasing proportion of the population. As well, the older population itself is aging. The proportion of elderly who are aged 80 and over is increasing, and the increase is expected to continue.

Indications are that, in the future, the families of the elderly may be expected to play a bigger role in their care. Although Canada now has one of the highest rates of institutionalization of the elderly in the western world,[14] new trends in the care of the elderly are towards deinstitutionalization.

Similar trends are evident in the care of the disabled, where community living is now the preferred option for those who were previously institutionalized. These trends will likely accelerate as provincial governments, faced with ever-increasing budget deficits, attempt to cut back on spending. Some experts have suggested that current high rates of institutionalization of the elderly, for example,

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[13] Dan Ciuriak and Harvey Sims, *Participation Rate and Labour Force Growth in Canada*, Department of Finance, Long Range and Structural Analysis Division, April 1980, p. 20.

[14] Monique Charron, Health and Services Policy Analysis Division, Policy Planning and Information Branch, Health and Welfare Canada, "Long-term care needs of Canada's elderly", in *Long-Term Care and Social Security*. Studies and Research No. 21, International Social Security Association Geneva, 1983, p. 82.

may be too expensive to sustain as the proportion of the population that is elderly increases.[15]

In the past, community care has meant family care and particularly care by female kin. Some groups have even suggested that incentives for them to do so should be considered, for example by providing a special pension for those (usually women) who remain outside the labour force to care for elderly or disabled relatives at home. However, assumptions that the care of children, the elderly, and sick and disabled family members will continue to be the responsibility of women who remain outside the work force may no longer be realistic. Given women's labour force participation trends referred to earlier, it seems much more likely that, if responsibility for care of the elderly and disabled is to fall more on their families, the responsibility will have to be undertaken by family members, both women and men, in addition to their paid employment.

[15] Alan Walker, "Meeting the Needs of Canada's Elderly with Limited Health Resources: Some Observation Based on British Experience," *Aging with Limited Health Resources*. Proceedings of a Colloquium on Health Care, May 1986, Economic Council of Canada, 1987, p. 27.

III. VIEWS OF FAMILY RESPONSIBILITY LEAVE

Leave for employees with family responsibilities is available to many Canadian workers, but there is no statutory right to such leave and it is rarely provided for in collective agreements. Where it is granted, it is usually at the discretion of the employee's immediate supervisor.

Later sections of this paper will review the extent to which family responsibility leave is provided through collective agreements and by statute, in Canada and elsewhere, and the policies and practices adopted by Canadian employers. In this section of the paper, in an effort to determine how Canadians view the question of family responsibility leave, we review the positions taken on the question by various groups and organizations.

Much of the discussion to date about leave for employees with family responsibilities has centred on leave for parents who must deal with emergency situations involving dependent children. There seems to have been little consideration so far for leave to care for other family members, such as elderly or disabled adults, and groups concerned with the elderly or the disabled do not appear to have made family responsibility leave an issue.

The views of the business community

To determine the views of the business community on the subject of family responsibility leave, major employer organizations and business-funded research groups were contacted. While some of these organizations had given thought to the question of maternity or parental leave, few seemed to have considered the possibility of a statutory right to family responsibility leave or even formalized policies on the subject.

Several of the organizations contacted expressed concern that if a certain number of days leave is provided by statute, employees would take the full number of days to which they are legally entitled, whether they needed them or not. This concern seems to be shared by many of the employers contacted for our survey of personnel policies, described in a later section of this report.

Employer organizations, such as the **Canadian Manufacturers' Association** (CMA), report there is little information on family responsibility leave, and their members have not shown much interest in the issue. For example, this organization's brief to the Special Committee on Child Care (a committee of Members of Parliament which reported in March 1987) called for the removal of maternity benefits from the UI program, expressed strong opposition to any extension of the period of leave for birth or adoption, and favoured public funding of child care only to the extent that subsidies continue to be given to low-income families. There was no mention of family responsibility leave.

A spokesperson reported that, although CMA members were surveyed for the preparation of the brief, few responded. The survey covered areas such as flexible work time, child care, and related issues. We were told that employers will negotiate leave on a case-by-case basis. In large firms, according to this spokesperson, family responsibility leave is common and is usually covered under the employee's own sick leave entitlement. In smaller firms, there may be more willingness to give an employee unpaid time off.

We were told that the CMA "recognizes the need to develop policies to address all areas of family life and employment, because this whole area is changing so much in recent years". However, there would be opposition to a statutory provision for such leave. Indeed, in its brief to the Special Committee on Child Care, the CMA says:

> the matter of parental leave, beyond current legislated levels, is best left to the employers, employees and unions directly involved. Arrangements can then be developed which best reflect and accommodate the needs of all parties. Flexibility is highly desirable, rather than the rigidities which legislation always entails.[16]

The **Canadian Chamber of Commerce**, in its brief to the special committee, said it felt strongly that parental leave should not be extended beyond the current legislative requirements. This is a matter best left to employers and employees to negotiate, the Chamber said.

The **Canadian Association of Small Business** has not undertaken any research, either formal or informal, to solicit members' views on leave for employees with family responsibilities. This organization has over 5 000 members, 25 percent in manufacturing, 40 percent in retail trade and the service sector, and 35 percent in other fields.

According to a spokesperson for the organization, small employers are very flexible and would probably allow one or two days off each year for emergencies. We were told that the key issue is recurrence. If employees ask for such leave "too often" (more than one or two days a year, according to the spokesperson's definition) the situation might get "out of hand". It would apparently be rare for a small business employer to have a written policy on family responsibility leave. But we were told the organization would be opposed to any statutory right for employees to take a certain number of days each year for family responsibility leave. "Legislated time off is a real concern for small employers," the spokesperson said, "we would rather offer bonuses to employees who don't take time off."

The **Business Council on National Issues**, an association of the chief executive officers of 150 major Canadian corporations, has no stated policy on family responsibility leave.

This organization recently published an analysis of social policy in which it stated:

> The reorientation of Canada's social policies should be undertaken with the objectives of building a more humane and responsive framework of social policies on a foundation of social realism; achieving a better targetting of the public's tax dollars; improving labour market incentives; and containing overall costs.[17]

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[16] "Submission by the Canadian Manufacturers' Association to the Parliamentary Task Force on Child Care," July 1986, p. 4.

[17] Business Council on National Issues, *Social Policy Reform and the National Agenda*. Ottawa, December 1986, p. (i).

A major focus of the document is on reducing costs. Among other proposals, the organization recommends reducing unemployment insurance benefits, measures to "create positive incentives" for those on social assistance to find jobs, abolition of family allowances, abolition of the child tax exemption, and more selectivity generally in social programs.

The report's critique of the Unemployment Insurance program does not mention maternity leave or benefits, and there is no reference to other types of leave. The introduction to the report notes that,

> although the approach is not comprehensive, most of the major programs in the social policy field are covered.[18]

The **Canadian Federation of Independent Business** (CFIB) also has no stated policy on the issue. This organization has a membership of approximately 77 000 firms, 85 percent of which employ fewer than 20 persons. The CFIB regularly surveys its members to solicit their views on a variety of public issues. Ballots on various topics are included with the organization's newsletter, *Mandate*, and members are asked to check boxes indicating opposition to or approval of various issues or policies. According to a spokesperson for the organization, the response rate from these surveys is about 28 percent. Results of surveys are published in subsequent newsletters and completed ballot cards are sent to all Members of Parliament to keep them informed of CFIB members' views.

The CFIB included a question on family responsibility leave in its May 1987 newsletter. Members were asked "Are you for or against leave for employees with family responsibilities?" The leave was explained as follows:

> Some interest groups have recommended that short-term leave (possibly five days/year) for employees with family responsibilities should be legislated. Such responsibilities may include care for a sick child or disabled or elderly relative, temporary replacement of regular caregivers, and accompaniment of the child or relative to a medical appointment or the child's school. Formal policies are not common at present; they exist in the federal public service and in some union agreements. In addition, many employers give such leave at the discretion of immediate supervisors.
>
> Arguments for leave for employees with family responsibilities: It would be more equitable, as reliance on individual supervisors' discretion is eliminated. It can help reduce employees' family worries, increasing worker productivity.
>
> Arguments against leave for employees with family responsibilities: It could be an additional cost burden if more people than at present take advantage of the leave. Informal arrangements can sometimes be more flexible.[19]

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[18] *Ibid.*

[19] Canadian Federation of Independent Business *Mandate*. 132 (05 87), p. 2.

Readers were asked to mark a ballot as "for", "against", or "undecided". Results of this survey, released in July 1987, showed 74 percent of respondents were opposed to leave for employees with family responsibilities (as defined in the question above), 18 percent were in favour, and 8 percent were undecided.[20]

The **Conference Board of Canada**, a research organization funded by business whose purpose is "to assist senior executives and other leaders in arriving at sound decisions", is undertaking a major study to determine the nature and extent of the conflict between family responsibilities and work, the effect that this conflict can have on employee productivity, solutions to address the conflict, and the opinions of employees, employers, and unions regarding their responsibility and that of governments to provide these solutions.

The study consists of an employer survey, an employee survey, and a series of executive interviews.

A recent report by **The Conference Board,** the New York-based organization with which the Conference Board of Canada is associated, dealt with corporate policies and attitudes toward families and was based on discussions with corporate human-resource professionals as well as meetings with 73 corporate executives from major corporations throughout the United States, most of which employed 10 000 or more workers.[21]

According to this report,

> most personnel executives are well aware that recent changes in family structures (such as the increased visibility of single working parents, adult singles with non-traditional lifestyles, and working couples at all income levels) are having an impact on the corporation. Many also acknowledge that some corporate practices can adversely affect family relationships. They note, for example, that heavy demands on executive time, relocation of managers or facilities, rigid work schedules, shift work, and mandatory overtime can contribute to the breakdown of family ties. And many suggest that companies should review these policies and, where feasible, make changes to lessen the potential damage.[22]

As the report also notes, however, most of the executives who took part in the study were from "a group of very large and, quite possibly, unusually responsive corporations". In the business community generally, says the report, myths and traditions have a way of lingering. It describes how a group of chief executives who recently attended a seminar at the Harvard Business School were asked to characterize the family patterns of their employees. The executives guessed that at least two fifths (some said almost three fourths) of their employees were married men whose wives did not work outside the home. As the report notes, while some companies – and possibly a few industries – may have more

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[20] Information from Canadian Federation of Independent Business, July 1987.

[21] Helen Axel, *Corporations and Families: Changing Practices and Perspectives*. A Research Report from The Conference Board, New York: 1985.

[22] *Ibid.* p. 15.

employees than average from "traditional" families, the relative size of the single-earner, married couple population found by these CEOs does not even come close to the one-in-ten ratio found nation-wide in the United States.[23]

The Conference Board report, which reviewed surveys of employers with more than 100 employees by the United States Department of Labor, the U.S. Chamber of Commerce, and The Conference Board itself noted "an expansion" in recent years of paid and unpaid leave permitted by large employers for reasons including care of sick family members, but cautioned,

> although many human resource representatives recognize that their employees may occasionally have to be absent because of illness affecting a child or other family member, very few firms appear to address this issue as a specific problem. Vacation time or personal holidays, some suggest, are an adequate cushion for such emergencies. Others, however, acknowledge that workers are sometimes using their own sick leave when there is an illness in the family.[24]

The views of the labour movement

We used several approaches to determine the views of the labour movement on family responsibility leave:

- We reviewed a selection of briefs presented by trade unions and labour organizations to recent commissions and task forces that might have raised the subject of family responsibility leave. Specifically, we looked at briefs presented to the federal Task Force on Child Care (the Cooke Task Force), which reported in March 1986; the Commission of Inquiry on Unemployment Insurance (the Forget Commission), which reported in November 1986; and the Special Committee on Child Care, which reported in March 1987.

- We contacted all provincial federations of labour and asked them whether they had passed any resolutions on family responsibility leave or had done any lobbying on this issue.

- We surveyed the 30 largest trade unions by means of a written questionnaire (described in more detail later in this report). As part of this survey, we asked unions for their views on family responsibility leave – whether it was a priority for them in collective bargaining or might become one.

Briefs to commissions and task forces.

A number of trade unions, as well as the Canadian Labour Congress, have already adopted policies or positions on parental rights, which call for a number of days paid leave each year for either parent who must fulfil responsibilities with

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[23] *Ibid.* p. 1.

[24] *Ibid.* p. 33.

regard to children. Not surprisingly, unions tended to focus on this aspect in their briefs to the Cooke Task Force and the Special Committee on Child Care. However, many of the same organizations also support the concept of a statutory right to family responsibility leave that would include all the various elements outlined at the beginning of this paper.

Many of the briefs presented to the Forget Commission dealt with the question of maternity benefits, now provided through the Unemployment Insurance (UI) program. Some organizations used the opportunity to outline a system that would involve changing the current maternity benefits program to one of paid parental leave, available to either parent. None of the organizations whose briefs were reviewed for this study referred to family responsibility leave as part of a paid parental leave program under UI, although almost all support the concept of paid leave for workers with family responsibilities. This no doubt reflects the fact that these organizations view family responsibility leave as more appropriately dealt with under employment standards legislation or the Canada Labour Code, in the same way as paid vacation and statutory paid holidays. The possibility of incorporating a few days paid leave each year into the UI maternity/parental benefits program does not seem to have been considered.

The **Canadian Labour Congress** (CLC), in a brief to the Forget Commission, proposed that maternity and parental benefits provided through the unemployment insurance program should match the statutory leave provisions of the Canada Labour Code – that is, 17 weeks of benefits for birthing mothers, through the elimination of the current two-week waiting period, followed by a further 24 weeks of parental benefits, available to either parent. The CLC argued strongly that parental benefits should remain within the UI program. It said that

> parental benefits belong in the UI program because the loss of earnings due to childbearing and child care during infancy is no different in its effects than the loss of earnings due to layoff and termination of employment.[25]

In its brief to the Special Committee on Child Care, the CLC favoured leave for employees with family responsibilities. In a section on parental rights, the CLC made the following recommendations:

- That the Canada Labour Code provisions for parental leave be amended to provide for a one-year leave following the birth or adoption of a child and that employees' seniority and the accumulation of benefits be fully protected during such leave.

- That parents be entitled to a minimum of 10 days leave with pay per year for family illnesses, emergencies, or other parental responsibilities.

The **International Association of Machinists and Aerospace Workers,** in a submission to the Special Committee on Child Care, said that

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[25] Canadian Labour Congress, *Building on a Solid Foundation.* Submission by the Canadian Labour Congress to the Commission of Inquiry on Unemployment Insurance, February 1986, p. 43.

> legislation in all jurisdictions should require employers to allow up to a year of leave for new mothers or fathers after birth or adoption, and to provide a certain number of family responsibility days each year as a minimum employment standard.[26]

The **Canadian Teachers' Federation** noted the need for leave for employees with family responsibilities and pointed out that most women in the work force are not members of trade unions and so are

> entirely dependent on the goodwill of employers in undertaking these initiatives. A strong program of public education aimed, in particular, at employers of unorganized workers would do much to augment the necessary amendment to statutory benefits legislation.[27]

This union also noted that, while clauses calling for paid parenting leave and family responsibility leave may be in "asking packages" and "model contracts", such provisions often get lost at the bargaining table and thus seldom appear in collective agreements.

The **National Union of Provincial Government Employees**, in its brief, said

> a parent should not have to lie about being sick in order to stay home with a sick child. Provision should be made in the Canada Labour Code for a minimum of ten days paid leave of absence for family responsibilities. We recognize that most labour law is within the provincial jurisdiction, but believe that the federal government should take a leading role in providing an example for the provinces to follow.[28]

Views of provincial federations of labour

While most provincial federations of labour would probably support the concept of leave for employees with family responsibilities, as of early 1987, only Ontario's, Saskatchewan's, and Quebec's have passed specific resolutions dealing with the question. Responses received from our telephone contacts with provincial federations are summarized below.

- The **Newfoundland Federation of Labour** (NFL) has no specific policy in this area and has not made it a priority in lobbying efforts. The issue has apparently not been raised recently in NFL discussions.

- The **Prince Edward Island Federation of Labour** says that there have been informal discussions on family responsibility leave among members of the

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[26] Submission by the International Association of Machinists and Aerospace Workers to the Parliamentary Task Force on Child Care Services in Canada 1986.

[27] Canadian Teachers' Federation, *Submission to the Parliamentary Task Force on Child Care*. June 1986, p. 20.

[28] National Union of Provincial Government Employees, *Brief presented to the Special Parliamentary Committee on Child Care*, June 12, 1986, pp. 5 and 6.

women's committee, but no policy statements have yet emerged. The PEI public service union has four days maximum paid leave for family responsibilities in its contract, covering leave for serious family illness and care and transportation of a parent, spouse, child, or relative living with the employee to medical or dental appointments.

• The **New Brunswick Federation of Labour** has not looked at the issue and has no resolutions on the subject.

• The **Nova Scotia Federation of Labour** (NSFL) has no specific clauses in writing covering family responsibility leave, but most of the briefs it has submitted on issues related to child care advocate parental leave in the case of a child's illness. The number of days has not been specified. The NSFL would like to see provision for family responsibility leave incorporated into both the Canada Labour Code and the provincial employment standards legislation.

• The **Ontario Federation of Labour** (OFL) submitted proposed amendments to the province's Employment Standards Act to the Minister of Labour in August 1986. In a section on "Leave for Employees with Child Care and Family Responsibilities", the OFL proposed that

> any employee shall be entitled to receive a maximum of 20 half days or any combination thereof to a maximum of ten full days leave from work per year without loss of pay or benefits for personal need and family responsibilities.[29]

As well, the OFL says that collective agreements should recognize that workers are also family members with family responsibilities. Collective agreements should make provision for workers to care for dependent family members who are ill without having to deduct the time from their own sick leave entitlement.

• The **Manitoba Federation of Labour** (MFL) does not have any specific resolutions on the topic but, like the NSFL, has pushed for government legislation guaranteeing parental leave in the case of a child's illness in briefs it has prepared on day care. The MFL recently received a request from the Manitoba Medical Association (MMA) to pass a resolution on parental leave for children's illnesses. The MMA is apparently concerned that children who go to day care centres with illnesses are causing harm to other children and that parents should have more paid leave to stay home with sick children to improve the general level of health of all children in the province.

A spokesperson for the MFL hoped a resolution on the subject would come from one of the affiliates at the MFL's 1987 convention.

• The **Alberta Federation of Labour** could not recall any specific resolutions on family responsibility leave, although it may have been included in briefs on child care presented by the Federation. The focus of activities to date

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[29] Ontario Federation of Labour, *Amendments to the Employment Standards Act Revised Status of Ontario, 1980 Chapter 137, as Amended*. Submitted to the Minister of Labour, The Honourable William Wrye, August 5, 1986.

has been on maternity leave; however, it may now turn its efforts to other types of benefit such as family responsibility leave.

• The **Saskatchewan Federation of Labour** has passed a resolution on maternity, paternity, and adoption leave which includes the following passage:

> It is widely recognized that women in the paid labour force are here to stay as economic conditions have created a situation where both parents in a family need to work to make ends meet . . . We further support that legislation be enacted to provide for leaves of absence for both parents to attend to sick children and to attend to important educational needs such as parent-teacher interviews.

• The **Quebec Federation of Labour** has passed a resolution on family responsibility leave advocating that provision be made for this type of leave in the Quebec labour standards legislation. It appears that most public sector employees in Quebec already have provisions for family responsibility leave in their collective agreements, but few unionized private sector employees have such provisions.

Survey of trade unions

In our survey of trade unions we found that, although many respondents supported the concept of family responsibility leave, the issue has not had a high priority recently for those unions which have had to concentrate their efforts on job security. Some unions with a predominantly male membership felt the issue of family responsibility leave was not relevant to them. As one union, whose membership is 79 percent male, said, "historically, family care responsibilities fall on women".

While some unions have made family responsibility leave a priority in collective bargaining and some have not, most support the efforts of the CLC and provincial federations of labour to get changes to the Canada Labour Code and provincial employment standards legislation providing leave for employees with family responsibilities.

The policies and positions of some of the unions and federations of labour that responded to our questionnaire are summarized below.[30] (The positions taken by some of the other unions surveyed were outlined in their briefs to the various committees, reviewed above.)

The **Amalgamated Clothing and Textile Workers Union** has no stated policy on leave for employees with family responsibilities. This union represents workers in a low-wage industry, and we were told that priority has been given to wages and hours of work. A spokesperson said that, although two thirds of the members are women and "we realize women need that kind of leave", salaries are more important. It appears that many women members must use their own sick leave entitlement if they have to take time off work to care for a child or family member who is ill.

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[30] Unless otherwise indicated, the information presented in this section was obtained from the special survey of trade unions undertaken for this study.

The **Canadian Union of Public Employees** (CUPE) adopted a policy on family illness leave as part of its day care policy in 1983. In a report to the CUPE national convention that year, the union's National Day Care Committee said that, complementing the provision of child care facilities (which were dealt with in detail in the report), "parental rights must be enshrined in legislation". The committee recommended, in part, that

> parents be guaranteed paid leave up to ten days per year for the care of their children who are ill or who have special needs requiring parental attention.[31]

The **Communications and Electrical Workers of Canada** adopted a policy on parental rights at its convention in June 1982 that supported the negotiation of parental rights in all bargaining units. The union noted that of equal importance with paid maternity leave (which is already provided for in its collective agreements with Bell Canada and Northern Telecom) are other parental rights, including 10 days yearly paid leave for either parent for responsibilities with regard to their children.[32] It is part of the union's policy that parents should not be forced to use their own sick leave days if a child requires care due to illness or has to be accompanied to the dentist or doctor.

The **Federation of Women Teachers' Associations of Ontario** has a collective bargaining policy that a teacher shall be entitled to five teaching days of paid leave per year for care of an ill child.[33] The union says, however, that priority in recent bargaining efforts has been for paid maternity and adoption leave. At the moment, 55 percent of the union's contracts provide members with one to five days a year of leave in the case of illness of a family member or medical appointments.

The **International Woodworkers of America** has no policy on family responsibility leave and has never addressed the issue. According to a spokesperson, "members have a hard enough time getting their own sick leave paid for. For most of them, they have to take off the first six days of any illness without pay, before their illness insurance plan starts to cover them".

In the **National Union of Provincial Government Employees,** the Nova Scotia Government Employees Union and the Newfoundland Association of Public Employees (NAPE) said that family responsibility leave is currently a priority in collective bargaining. NAPE is seeking to extend provisions for family duties to include care of relatives not living with the employee. The British Columbia Government Employees Union says that it has raised the issue of family illness leave during the last four rounds of bargaining with the government.

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[31] *Report of the CUPE National Day Care Committee to the CUPE National Convention*, adopted October 1983, p. 6.

[32] Communications and Electrical Workers of Canada, *Policy Document on Parental Rights*. CWC Convention, June 1982, p. 2.

[33] Federation of Women Teachers' Association of Ontario, Parental Leave Policy for Collective Bargaining Workshop, November 14 and 15, 1986.

The **Public Service Alliance of Canada** already has family responsibility leave in 95 percent of its collective agreements. However, the issue is still a priority in collective bargaining for those members who do not yet have it.

The **Syndicat des fonctionnaires provinciaux du Québec** (the Quebec government employees union) rates family responsibility leave as a priority and says it has asked for six days paid special leave to cover family responsibilities and other purposes in its last three or four negotiations. It is believed that many members use their own sick leave for family responsibilities, but current negotiations might result in three days per year for family care. At the moment, all members are entitled to one day of leave for serious family illnesses or in emergencies.

The **United Steelworkers of America** told us that very few of the collective agreements negotiated by the union contain provisions for leave for employees with family responsibilities. However, according to the union's National Director for Canada,

> the dearth of family responsibility leave provisions in Steelworker collective agreements should not be interpreted as a lack of interest by our members. Certainly many of our members and their families would benefit from such provisions. The current lack of family leave can be attributed in large part to the difficult economic climate in which collective bargaining now takes place. Although our union has not often taken concessions, our members are hard pressed to do more than preserve what they previously gained. In this context, local bargaining committees naturally rank issues such as job security, contracting out, and pensions ahead of family leave in setting their priorities.

The views of community organizations

To obtain the views of community organizations, we contacted by telephone the largest national women's groups, several disabled persons' advocacy groups, and several organizations representing senior citizens. In some cases, the views of these organizations had been expressed in briefs to the various task forces and commissions referred to earlier.[34] In general, groups representing senior citizens and disabled persons had given little thought to the issue of family responsibility leave. However, some women's groups have taken the position that there should be a statutory right to leave of a certain number of days each year for employees with family responsibilities.

Many of these groups have been preoccupied recently with both child care and paid parental leave. While family responsibility leave may be seen as closely connected with both these concerns, the issue has not fit clearly into either the current debate on day care or the discussion of paid parental leave. The emphasis in the day care debate has been on increasing the number of licensed day care spaces, which is now a matter of great urgency. Since the statutory right

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[34] Unless otherwise indicated, the information presented in this section was obtained through telephone contacts with the organizations concerned.

to maternity (and sometimes parental) leave following the birth of a child is already guaranteed in all Canadian jurisdictions, the debate about parental leave has focused on benefits and has taken place within the context of the unemployment insurance program.

However, a number of organizations that have addressed the issue of family responsibility leave have done so in the context of child care. Several of the briefs presented to the Task Force on Child Care and to the Special Committee on Child Care refer to the need for parents to have the right to time off to care for a sick child or in other circumstances related to the child's needs. As well, individual parents who wrote to the Task Force on Child Care expressed an urgent need for the right to a few days leave each year to attend to family responsibilities. In fact, the task force said that

> the pressing need of parents for an annual allotment of leave from work to attend to these family responsibilities was one of the greatest concerns raised in letters from parents to the Task Force. It is imperative that Canadian labour legislation begin to adapt to these basic needs of Canadian workers as parents.[35]

Women's groups

The **National Action Committee on the Status of Women** (NAC), an umbrella organization with close to 500 affiliated member groups, presented a brief to the Forget Commission advocating 17weeks of benefits for birthing mothers, through the elimination of the current two-week waiting period after which an eligible claimant may receive 15 weeks of maternity benefits. As well, NAC recommended an additional 24 weeks of benefits, available to either parent, giving a total of 41 weeks of benefits in all.

The basis for this proposal, outlined in NAC's brief to the commission of inquiry, was to bring benefits into line with the statutory (unpaid) leave provisions of Canada Labour Code – in other words, to provide benefits for those who exercise their right to take the leave. (Statutory leave provisions under the Code were changed in 1985, giving workers under federal jurisdiction the right to 17 weeks maternity leave for the mother, followed by 24 weeks of child care leave, available to either parent.) In its brief, NAC also pointed out that the concept of paid parental leave has been supported by, among others, the Parliamentary Committee on Equality Rights, the Canadian Human Rights Commission, the Canadian Advisory Council on the Status of Women, and the employee representatives on the UI Committee of the Employment and Immigration Advisory Council.[36]

More recently, NAC has turned its attention to family responsibility leave. At its annual meeting in May 1987, it considered a resolution calling on the organization to campaign for legislated provisions for family responsibility leave. The resolution eventually passed was:

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[35] Status of Women Canada, *Report of the Task Force on Child Care*. March 1986, p. 320.

[36] National Action Committee on the Status of Women, *The Problem is Jobs...Not Unemployment Insurance*. A Brief to the Commission of Inquiry on Unemployment Insurance, January 18, 1986, p. 21.

> Be it resolved that NAC vigorously campaign for legislation which introduces parental leave and leave for family responsibilities in the following manner:
>
> Introduction of benefits for leave for family responsibility for up to ten days per year to care for family members....[37]

The **Canadian Advisory Council on the Status of Women** (CACSW) took a similar position in its brief to the Forget Commission. It also supported the notion of making all benefits associated with the arrival of new children in the family available to either parent, but providing for a period of maternity benefits available only to mothers to allow for physical recuperation from childbirth. Details, said the council, should be worked out as part of the development of a comprehensive program for paid parental leave, and "our views on the design and coverage of such a program are beyond the scope of this brief".[38]

In its brief to the special committee, CACSW observed that

> additional leave to allow parents to meet family-related responsibilities is a crucial element of a comprehensive family support program. This leave can be used to care for children in emergencies, take them to the doctor, or attend parent-teacher meetings. These events occur regularly and should be acknowledged when developing a system to respond to family needs. At present, most parents have to use their vacation or sick leave to meet such obligations.[39]

CACSW recommended that "a fixed number of paid days each year be allotted as an employee's right for family illness leave". It suggested that 10 days be considered, with up to three days granted without a medical certificate, and seven days with a medical certificate. Apparently, the council's recommendation is that this leave be granted specifically in the case of a child's illness (or the illness of the child's usual caregiver). CACSW does not mention anything about illness of other family members.

The **Canadian Day Care Advocacy Association** (CDCAA) also commented favourably on the issue of family responsibility leave when it appeared before the Special Committee on Child Care, although the CDCAA has not yet developed a policy on such leave.

The **National Association of Women and the Law** (NAWL) supports the development of a comprehensive child care and family support system, recognizing that all parents require leave to fulfill essential family responsibilities. In its brief to the special committee, presented in June 1986, NAWL recommended amendments to the Canada Labour Code to expand the provisions for parental leave. The proposed amendments included one to provide "a minimum of five

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[37] Information from Laurel Ritchie of NAC's Employment Committee, June 1987.

[38] The Canadian Advisory Council on the Status of Women, *Brief Presented to the Commission of Inquiry on Unemployment Insurance*. January 1986, p. 27.

[39] The Canadian Advisory Council on the Status of Women, *Caring for our Children. A Brief Presented to the Special Committee on Child Care, June 10, 1986, p.* 20.

days of annual leave for family-related responsibilities that must be fulfilled during regular working hours". It is intended that the proposed leave would be available to both women and men.

The **Canadian Federation of University Women** currently has nothing on the subject of family responsibility leave on its books.

The **Federated Women's Institutes of Canada** presented a brief to the Cooke Task Force, but it did not address the question of family responsibility leave. The members of this organization are primarily concerned with rural issues and, while they have made recommendations on pensions, they do not generally deal with other issues relating to women in the work force or parental leave.

The **National Council of Jewish Women of Canada** has done extensive work in the area of pensions and also supports federally funded day care, but it has not worked specifically on parents and the workplace and has not looked at the issue of family responsibility leave.

Groups representing senior citizens

The **National Pensioners and Senior Citizens Federation** has advocated support measures for working families looking after the elderly but has never considered a proposal for family responsibility leave for workers who have elderly or disabled dependent relatives. The forms of support this group has proposed include income tax relief – for example, tax deductions for making a home wheelchair accessible – and respite care for elderly relatives so that their families may take a break. However, a representative of the group indicated that they would probably support a legislated right to family responsibility leave.

The **United Senior Citizens of Ontario** has also not considered the issue of family responsibility leave, although a spokeperson said they would support the concept of including a provision for such leave in employment standards legislation or labour codes.

The **Senior Citizens Council of Ottawa-Carleton** has not undertaken any research on family responsibility leave and has no policy position on the issue.

Groups representing disabled persons

Community Living Mississauga, an organization that helps match disabled adults with families that will share their homes with a disabled person, has not taken a position on family responsibility leave, although it is aware of cases where employees have needed to take time off work to care for disabled relatives. In the opinion of the Executive Director of this organization, however, as more disabled persons live in the community, more support systems will be developed for them, so it is less likely that relatives or other family members would have to take time off work to attend to their needs.[40]

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[40] Interview with Judith Sandys, Executive Director, Community Living Mississauga, May 15, 1987.

People United for Self Help, a Toronto-based support group for disabled people, says that it is concerned that, in Ontario, relatives of the disabled often find they cannot hold full-time jobs because the home support services are so poor they cannot rely on them to care for a disabled child in the home on a full-time basis. Otherwise, the group has not considered the issue of family responsibility leave for employees who might have to care for a disabled family member on an emergency basis.

The **Coalition of Provincial Organizations of the Handicapped** (CPOH) has not looked at the issue either. A spokesperson said that he believes it is especially important that family leave provisions exist in the case where a family member is injured and becomes disabled and a period of adjustment is needed for everybody. The agenda of CPOH is so full that the issue of family responsibility leave "is nowhere near the top".

Views of advisory bodies

The **Manitoba Day Care Liaison Committee**, an organization concerned with day care, has recently taken a position on family responsibility leave. In its brief to the Special Committee on Child Care, it observed that many parents do not have alternate care available for their children when they are sick. Often parents are left with no alternative but to call in sick themselves in order to stay home with their child.

This group recommended that both parents be allowed five paid days per year to attend to the needs of their children, 'be it sick care, doctor or dentist appointments.'

The **Advisory Council on Employment and Immigration**, which advises the Minister of Employment and Immigration, has recently completed a report on workers with family responsibilities.[41] The report, prepared by a committee of council members established in early 1986, outlines changing economic and social realities and makes recommendations to assist workers who must combine paid employment with family responsibilities.

The report recommends that the Minister of Employment and Immigration, together with the Minister of Labour, sponsor a national symposium with representatives from governments, business, labour, and non-governmental organizations to review federal and provincial labour codes and employment standards legislation and to discuss what legislative changes might be made to reflect the changing workplace and to accommodate the needs of workers with family responsibilities.

The report suggests that, among other issues, the symposium should review leave for family illness, leave for care of elderly family members and dependents with disabilities, and special leave for family matters. Although no specific changes to the Canada Labour Code are suggested, the report does recommend

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[41] Canada Employment and Immigration Advisory Council. *Workers with Family Responsibilities in a Changing Society: Who Cares?* a report presented to the Minister of Employment and Immigration, June 1987.

that consideration be given to extending sickness benefits available under the Unemployment Insurance program to employees who are required to care for sick dependents. (This appears to be the only group or organization to recommend including leave for family illness under the UI program.) As well, the report recommends the development of a national child care policy, providing for a wide range of options including emergency care for children.

In identifying core issues relating to workers with family responsibilities, the committee said that it expanded the definition of "family responsibilities" to include not only child care but also responsibility for the care of elderly family members, those with temporary and chronic illnesses, dependents with disabilities, and for the interdependence of spouses in a two-worker family. It concluded that "the federal government should take the lead in setting national standards for leave provisions for workers with family responsibilities".

The **Vanier Institute of the Family** has addressed the issue of leave for employees with family responsibilities only indirectly. In its brief to the Cooke Task Force, it acknowledged the need for different types of leave at different stages in family life, including illness, school-related problems, and so on. In presentations to the Advisory Council on Employment and Immigration, the Institute has encouraged the Minister to develop a broader understanding of family leave policies. The institute has suggested that leaves for birth, adoption, family illness, education, and employment should all be addressed by the same area of government policy. It feels that the issue of a guaranteed annual income is relevant insofar as it may be a way of paying people for leave while they are not in the work force.

However, the implication of this approach for family responsibility leave would be that employees might take unpaid days off to attend to the emergency needs of family members, while some form of guaranteed annual income would ensure that their annual earnings did not fall below a certain level.

Recommendations by task forces and commissions

Both the Task Force on Child Care and the Special Committee on Child Care referred to the subject of family responsibility leave in their reports, but only the task force made specific recommendations.

As a standard, the **Task Force on Child Care** recommended that a minimum of five days annual paid leave for family-related responsibilities be incorporated into the Canada Labour Code. While it recognized that coverage for the majority of workers, who come under provincial jurisdiction, would require amendment of provincial employment standards legislation, the task force felt the federal government should take the lead by initiating such a policy for employees under federal jurisdiction.

The task force also noted that the need for this type of leave for parents with disabled children is particularly acute, because they often have to take their children to medical appointments, assessments, consultations and therapy sessions. But while it considered recommending 10 days paid leave a year for parents of disabled children, the task force said it was not sure that this would adequately address the need. It recommended that the Parliamentary Committee on Child Care, solicit input from groups representing disabled persons, as well as

from parents of disabled children, to determine how the needs of families with disabled children can be adequately addressed "within the context of a developing parental leave program".[42]

The **Special Committee on Child Care**, although specifically directed to look at the needs of families with disabled children, made recommendations that deal only with the prevention of disability in children.[43] In addition, it said that "recognizing and providing for child care and family responsibilities of workers has not yet become a priority for management or labour".[44]

The committee's recommendations on these questions, however, dealt only with tax incentives for employers to provide workplace day care and did not address the question of family responsibility leave.

In a separate report, Margaret Mitchell, the NDP member of the committee, did deal with the question and recommended

> that the Canada Labour Code be amended to provide 10 days of paid leave for family-related responsibilities. We would encourage provincial and territorial governments to adopt similar provisions in their labour codes.[45]

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[42] *Supra* note 35, p. 320.

[43] *Sharing the Responsibility*. Report of the Special Committee on Child Care. Ottawa: March 1987, p. 77.

[44] *Ibid*. p. 61.

[45] Margaret Mitchell, MP, *Caring for Canada's Children: A Special Report on the Crisis in Child Care*. Ottawa: March 1987, p. 35.

IV. STATUTORY PROVISIONS FOR LEAVE

In Canada, the right to family-related leave other than maternity, paternity, or adoption leave is provided for in only two jurisdictions: under regulations governing the federal public service and in Quebec labour legislation. (It should be noted that most provisions of the Canada Labour Code do not apply to federal public servants, who are under a separate legislative jurisdiction).

All employees of the **federal public service** have the right to family responsibility leave. While leave provisions covering members of the Public Service Alliance of Canada (about 95 percent of all federal public servants) are contained in a master collective agreement,[46] all other employees are covered by public service regulations on family responsibility leave. The provisions for union members are generally the same as those provided in the regulations. However, for those employees not subject to the special leave provisions of a collective agreement, managerial discretion on an individual basis is practised. Leave with pay for family responsibilities up to a maximum of five days in any fiscal year is provided in the following circumstances:[47]

1) up to half a day to take a dependent family member to medical or dental appointments, or for meetings with school authorities or adoption agencies;

2) up to two consecutive days for the temporary care of a sick family member;

3) up to one day for needs directly related to the birth of the employee's child if the employee is male (This leave may be divided into two periods and granted on separate days and is in addition to the maternity leave provisions available for female employees.);

4) up to one day for needs directly related to the adoption of a child. This leave may also be divided into two periods and granted on separate days and is in addition to the 26 weeks of leave without pay which a federal government employee may take on the adoption of a child.

For part-time employees, family responsibility leave is generally prorated. For example, if the employee works three days a week, she or he will probably be entitled to three days of family responsibility leave in any fiscal year. Federal public servants may take paid leave for family responsibilities involving a spouse or resident common-law partner, dependent children, parents including step-parents or foster parents, and any other relative living in the same household as the employee.

Federal employees may also be entitled to leave of up to one year without pay for personal needs – interpreted as leave for personal or family responsibilities, such as to settle an estate or care for a sick relative on a long-term basis. The "personal needs" leave may not be taken in conjunction with maternity or paternity leave. Personal needs leave may be taken for up to three

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[46] Information from Bill Stevenson Benefits, Personnel Policy Branch, Treasury Board, August 28, 1987.

[47] Pay Research Bureau, *Benefits and Working Conditions in the Public Service of Canada*. Public Service Staff Relations Board, Ottawa: October 1983, pp. 27-29.

months (in which case it counts for pay increment purposes and for the calculation of severance pay and vacation leave) or for up to a year (but the period beyond three months is not counted when calculating pay increases, severance pay, or vacation leave). However, each of these periods of personal needs leave may be taken only once in the employee's public service career.

In addition to these types of leave, an employee may take up to five years without pay to care for and nurture a pre-school age child. This leave may be taken in one or more periods, not exceeding five years in total.

Quebec labour legislation provides for additional types of leave related to pregnancy, such as leave for a woman when a miscarriage is threatened, leave when a legal abortion or spontaneous miscarriage occurs, and leave for a stillborn birth. However, there is no statutory right to family responsibility leave such as that envisaged in the present study.[48]

Family responsibility leave in other countries

A number of other countries[49] make statutory provisions for leave for employees with family responsibilities, most often in conjunction with parental leave programs. In some countries there is a clear listing of circumstances entitling employees to leave for family or personal reasons. In others, a variety of family-related emergencies may be covered under general provisions for personal leave. As a result, statutory rights to family responsibility leave, in the sense understood by this paper, are not always easy to distinguish from other types of personal leave, such as rights to leave on marriage or bereavement.

In most countries, the concept of leave for family responsibilities appears to be closely linked with the care of children, rather than of other dependent family members. A 1984 report, by the Organization for Economic Co-operation and Development's Working Party on the Role of Women in the Economy (of which Canada was a member) noted that parental leave available to either parent of young or sick children is a very important policy instrument in sharing the responsibilities of child care and in enabling mothers of young children to maintain continuity in the labour market.[50]

In setting out principles for the integration of women into the economy, this report urged that systems be structured to facilitate more equal roles for the sexes in both paid employment and domestic labour. The report said that

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[48] Information from Ministère du travail, Services des études en relations du travail, Québec.

[49] Specific sources of information for each country are indicated where appropriate. General information may also be found in "Special Leave in 10 Countries", in *European Industrial Relations Review*, No. 100, May 1982; and "Maternity and Parental Leave", *European Industrial Relations Review*, No. 97, February 1982.

[50] Working Party on the Role of Women in the Economy, *The Integration of Women in the Economy*, Organization for Economic Co-operation and Development, Paris 1984, p. 210.

> childbirth should be recognized as a socially necessary function and women should not be economically or socially disadvantaged for bearing children. Care of children should be recognized as the joint responsibility of parents and society. Relevant policies should treat both parents equally, except in the case of provisions related to the physical well-being of the mother during maternity.
>
> Care of elderly or disabled adults should be viewed as essentially a societal responsibility. Allowances paid to the elderly and disabled should be sufficient to enable them to pay for necessary care. Where relatives of either sex choose to provide care they should be eligible to act as paid care givers.[51]

The report noted that the introduction of extended leave, which may be taken by either parent, represents a move away from the segregation of roles and a recognition that fathers should participate in caring for children too.

Comprehensive parental leave programs developed in a number of countries often include a statutory entitlement to leave in the event of a child's illness or the illness of the child's usual caregiver. Generally, the employee is entitled to a certain number of days off per year without loss of earnings.

Many countries now emphasize the sharing of domestic labour and parenting between both parents not only as an important element of programs to promote equality for women, but also as central to the welfare of the child. As a result, family responsibility leave in many of the countries which provide it is available to either parent. In some countries, however, only the mother is entitled to leave to care for a sick child. Some countries provide additional benefits to working mothers such as reduced working time or extra holidays. In some Eastern European countries, family responsibility leave may be taken by the father only if the mother is no longer present or is ill and unable to take care of the child herself.

The policies of selected countries are reviewed below. Since information on parental leave policies is most readily available, the policies described here relate mainly to statutory leave for the emergency care of children, such as when a child or the child's usual caregiver is ill or if the child must be taken to a medical or school appointment. In some cases, there are references to leave to care for other family members, such as disabled or elderly adults; however, it is sometimes not possible in the literature to distinguish this type of leave from other types of personal leave, such as time off for bereavement or marriage.

Because there are certain basic similarities between countries having similar socio-economic systems, countries have been arranged into four broad groups:

1. the Nordic countries;
2. the European Economic Community;
3. the planned economies;
4. other countries, including the United States.

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[51] *Ibid.* p. 164

The Nordic Countries*

The philosophical basis for parental leave and family programs in the Nordic countries assumes that women will be in the work force and that parenting is a shared responsibility. There is also a belief that the fact that men are entitled to parental leave helps prevent discrimination against women in the workplace and in the home. All the Nordic countries have a strong commitment to encouraging the sharing of domestic labour between parents. Parental leave policies reflect this approach.

The provisions outlined below generally form part of extensive (and by Canadian standards, generous) parental leave programs.

Norway [52]

Under the Worker Protection and Working Environment Act (s. 33A) employees who have children under the age of 10 have the right to a leave of absence in the event of the illness of a child or of the child's usual caregiver. The leave is limited to 10 days per calendar year, regardless of the number of children an employee has. Single parents are entitled to up to 20 days leave each year, and the same provision applies in two-parent families where one parent is prevented from caring for the children because of personal illness, disability, or being in an institution.

Under Norway's National Insurance Scheme, benefits received during this kind of leave are the same as for the employee's own illness – that is, full salary. Norway also allows workers with family responsibilities to refuse to work overtime and to work reduced hours.

Sweden[53]

In Sweden, there is a wide range of paid and unpaid leave provisions, including up to two days paid leave (including travel time) in the event of the death of a close relative. Under this country's extensive parental insurance program, each family is allowed up to 60 days paid leave per child per year to look after a child, whether their own child, an adopted child, foster child, or stepchild, until the child, is 12 years old (or 16 if the child is disabled).

**Note*: Denmark is included in the discussion of the European Economic Community.

[52] Sources of information: Interview with Kari Skrede, Institute of Applied Social Research, Oslo; *Social Insurance in Norway*, The National Insurance Institution, Oslo, 1981; *Worker Protection and Working Environment Act*, February 4, 1977, with amendments of June 1981, May 1982, and December 1982, Directorate of Labour Inspection, Oslo, April 1983.

[53] Sources of information Yva Ericsson, *The Economic Role of Women in Sweden*, transmitted by the Government of Sweden to the United Nations Economic Commission for Europe Seminar on "The Economic Role of Women in the ECE Region," held in Vienna in October 1984., ECE/SEM.6/R.1/ADD.7; Birgitta Wistrand, *Swedish Women on the Move*, The Swedish Institute, Stockholm, 1981; The Swedish Institute, "Social Insurance in Sweden", *Fact Sheets on Sweden*, March 1986.

Benefits are paid at 90 percent of regular earnings, up to a maximum similar to Canada's maximum weekly insurable earnings under the Unemployment Insurance program. Parental benefits are administered by the local insurance office under the supervision of the National Social Insurance Board. They are financed jointly by employers and the government, with employers paying 75 percent of the cost through a payroll tax equivalent to 7 percent of employees' wages up to the maximum insured wage. Employees do not have to contribute to the program.

Parental benefits are available in the following circumstances:

- When the child is ill, or if the person who regularly looks after the child is ill.

- When more children are born into the family and the mother is in hospital to give birth, the father may stay at home to look after the children.

- When the child is to be taken to a child welfare clinic, a school health clinic, a public dental clinic or a mental health facility for children and young people, parental benefit will be paid to that parent who stays home from work to accompany the child.

- When a parent wants to visit the day care centre or the school, parental benefit is paid for at most two days per year for each child.

Maternity insurance was converted into a parental insurance program in 1974, and the number of men exercising their right to leave of absence for child care has increased since that time. Still, only one man in five exercises his statutory right during the child's first year of life. On average, these fathers take a total of 46 days off. A recent report of a government working party on the role of men noted that

> men who are willing to take paid leave of absence for care of their children frequently encounter the derision and ridicule of their colleagues at work, particularly if the workplace is predominantly male.
>
> Men can also encounter opposition from women in low-paid, monotonous jobs from which they wish to escape for as long as possible by exclusive use of the entitlement period. By the nature of her upbringing, choice of education and employment, the woman may be conditioned to exercise sole responsibility for the care of the children when they are small.[54]

While the law states that the period of paid leave shall be shared equally between the parents, eight out of 10 fathers surrender the days to which they are entitled to the mother. The working party suggested that "positive discrimination" would have to be used to encourage men to use a greater proportion of the paid leave of absence, perhaps by applying a "mild" quota system in allocating the

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[54] *Mannen i Förändring* (The Changing Role of the Male), Summary of a report by the Working Party for the Role of the Male, Ministry of Labour, Sweden, 1986, p. 21.

leave between mother and father, and by specifying that part of the leave entitlement may not be transferred from one parent to the other.

However, it is much more common for men to take time off to look after sick children. Roughly half the days to which insurees are entitled in order to care for sick children are taken by men. The 10 days leave of absence to which fathers are entitled in connection with childbirth is taken by 80 percent of all new fathers.

Finland [55]

Changes to Finland's Sickness Insurance Act in 1981 increased the length of paid maternity leave to 11 months. Paid leave has been available to fathers as well as to mothers since 1978. A 1984 report noted that

> there are increasing demands for better co-ordination of working life with family life. Accordingly, the statutory maternity leave has been extended to 11 months and the so-called parental leave has been introduced. In the public sector, both parents have the right to take time off to care for a sick child, whereas in most of the private sector, only the mother has that right.[56]

The European Economic Community

The Commission of the European Communities (the governing body of the European Economic Community) announced its intention to promote parental leave and leave for family reasons in December 1981, as part of a new Community Action Program on the promotion of equal opportunities for women. The European Parliament had earlier adopted a resolution on the situation of women in the European Community, emphasizing the need for harmonization of the member states' laws and practices on parental leave and leave for family reasons.

A resolution on family policy, stressing the need for priority to be given to the development of parental leave, was passed in June 1983, and a proposed directive on the subject was submitted to the EEC Council of Ministers in November 1983. (Members of the community are committed to introduce laws to implement directives of the Council of Ministers within three years of being notified of the directive.) An amended version of the parental leave directive was submitted in November 1984, but it is still under discussion, so member countries have not yet had to act on it.

The directive makes the following provisions with regard to leave for family reasons:[57]

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[55] Sources of information: International Labour Office, Geneva, *Social and Labour Bulletin*, No. 2, June 1982; Central Statistical Office of Finland, *Position of Women*, Statistical Surveys No. 72, Helsinki, 1984; *The Economic Role of Women in Finland at the Beginning of the 1980s*, transmitted by the Government of Finland to the BCE Seminar, Vienna, October 1984, ECE/SEM.6/R.1/ADD.6.

[56] Government of Finland (1984) *op.cit.* p. 14.

[57] "Parental Leave," in *European Industrial Relations Review*, 132, January 1985, p. 29.

Article 8

1. Workers shall be entitled to claim a minimum number of days' leave per annum (to be laid down by the Member States) for pressing family reasons.

2. The following amongst others shall be considered as pressing family reasons:

   - illness of a spouse;
   - death of a near relative;
   - wedding of a child;
   - illness of a child or the person caring for the child.

3. The duration of the leave as provided for in paragraph 1 may be extended where:

   - the beneficiary is head of a single-parent family;
   - the beneficiary concerned has three or more children living at home;
   - under an age limit to be determined by the Member State concerned;
   - the beneficiary is responsible for the care of a disabled person living in the same household.

4. For the purposes of remuneration, social security contributions and allowances and pension entitlements, periods of leave for family reasons shall be assimilated to paid holidays.

A preamble to the proposed directive defines parental leave and states that it shall be granted to:

- fathers and mothers;
- adoptive fathers and mothers;
- stepfathers and stepmothers;
- any person acting in the place of such persons in circumstances such as the serious illness or death of the latter.

Leave for family reasons, according to the preamble, shall mean entitlement to limited periods of leave granted for pressing and important family reasons to workers defined above with family responsibilities. Under Article 3 of the directive, all wage-earners, including those working in the public sector, shall be entitled to the leave. Part-time workers are to be included, with any allowance or benefits being calculated "on the same basis and in proportion to those of full-time workers in the same situation".[58]

As mentioned, the directive has not yet received the approval of all member states of the community. Apparently, the United Kingdom is adamantly opposed to the proposed statutory leave provisions because it believes implementation of

[58] *Ibid.* p. 30.

parental leave and leave for family reasons might have a negative impact on employment.

There is continuing debate in the UK on the merits of parental leave programs in general, no doubt reflecting the prevailing political climate in that country. According to Sheila Kamerman, an international authority on child care and parental leave, the pattern of growth and development of parental leaves in all countries has slowed along with all other social benefits, but the benefit is very popular everywhere it exists. She notes that

> among the industrialized countries, only in Switzerland and the UK does there appear to be any ongoing debate about its merit or use. In contrast, there continues to be pressure in most countries to extend the duration of the leave, to extend coverage to fathers as well as mothers, to include adoptive as well as natural parents, and to extend the duration of the paid leave for some parents if not all.[59]

In any event, the European Parliament was told in December 1985 that, as far as the adoption of the directive is concerned, "everything depends on the attitude of the United Kingdom". But, in answer to a question from a member of the Parliament in December 1986 as to why the directive could not be implemented to improve options for parents and benefit families generally, a UK representative replied that the potential negative impact on employment was of primary importance and that the costs of the proposed measures would be "excessive".[60] In fact, the Equal Opportunities Commission estimated that the cost to employers of introducing the three-month parental leave provided for in the directive, including disruption, recruitment of substitutes, and so on, is that it would increase the total wages and salaries by less than 0.01 percent.[61]

The European Commission itself has been at pains to justify the costs of introducing such measures in a difficult economic climate. It stresses the positive contribution which it believes such leave provisions can make "to the overall charge to society of the care and early education of young children". As well, it argues, the costs should not be overestimated. For the parental leave provisions, says the commission, costs are likely to vary according to the rate of replacement of workers on parental leave and the temporary reduction in the demand for early child care facilities and services. As regards limited leave for family reasons, it argues that the cost factor is already taken into account in the wage budgets of most undertakings.[62]

While some members of the European Community, such as the Netherlands, have already implemented leave for employees with family responsibilities, as yet

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[59] Sheila Kamerman "Maternity and Parenting Benefits: An International Overview", 1986. To be published in Edward Zigler and Meryl Frank (eds.), *Infant Care Leaves*, New Haven, Conn: Yale University Press, forthcoming.

[60] Information from the office of the European Communities Library, Ottawa, May 1987.

[61] Equal Opportunities Commission, Briefings, "Parental Leave – The Proposed E.C. Directive and the EOC Study of the Costs", May 1986. Cited in Kamerman (1986) supra note 59.

[62] "Parental Leave Proposals", *European Industrial Relations Review*, No. 199, December 1983, p. 11.

such leave (in the sense understood by this paper) does not seem to be a feature of many of the member states of the EEC. Several countries do, however, provide a statutory right to leave for personal or family reasons such as marriage, birth or death.[63]

In **Belgium**, there is a statutory right to leave for family reasons, including leave for the father at the birth of a child (two days), for the marriage of the employee (two days), for the death of a spouse or close relative (three days maximum), and for the first communion of a child (one day). Unpaid leave may also be granted for "urgent family reasons", subject to detailed rules being laid down in individual employment contracts or collective agreements. However, there are no statutory provisions giving entitlement to general parental leave in situations such as the illness of a child.

In **Denmark** there are no specific statutory rights to time off for family-related reasons, although time off is granted on the basis of general legal principles. For example, case law has established that leave should be given for a birth or death in the family where "it would be harmful to the employee's general welfare not to have it".[64]

New parental leave policies for Denmark were phased in during 1984 and 1985. There was apparently no provision for employees to take time off for family responsibilities, such as emergency care of children.

In the **Federal Republic of Germany**, there is no statutory right to paid time off for family reasons, but general principles enshrined in the Civil Code have established that "short" absences (of up to two days) for "personal reasons" (for example, a birth, marriage or death in the family) do not constitute justifiable reason for terminating employment or withholding pay. As well, workers are entitled to up to five days paid leave a year to look after a sick child, where no alternative nursing support is available. (Collective agreements in FRG generally include a provision for family responsibility leave too, so most workers are entitled to about 10 or more days for this purpose.)[65]

In **France**, statutory entitlement to paid time off for family reasons includes leave for the father at the birth of a child (three days), for the employee's marriage (four days), for the marriage of a child (one day), and for the death of a spouse or child (two days) or a parent (one day). Mothers with young children receive two extra days of annual vacation.

In **Italy**, there is no general statutory right to paid time off for family reasons, although case law has established that an employer cannot penalize a worker for taking time off (for example for a birth, marriage, or death in the family) where this would seriously affect her or his "moral and psychological welfare". A mother may take paid leave of absence if her child is sick and is under three years of age. This right may be claimed by the father if he has sole custody of the child or

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[63] Unless otherwise indicated, information on European countries will be found in note 49.

[64] *Supra* note 49.

[65] *Supra* note 59.

if he substitutes for the mother in caring for the child. There is no information on the number of days allowed per year.

In the **Netherlands**, workers are entitled to paid time off for family reasons according to general principles enshrined in the Civil Code, which provides that an employee should be paid for "short" periods when she or he does not work due to "special circumstances". Such circumstances include leave for the father on the birth of a child (one to four days), for the employee's marriage (one to four days), and for a death in the employee's home (one to four days). The length of the leave varies according to the closeness of the relationship with the family member. There are no statutory provisions giving entitlement for general parental leave in situations such as a child's illness, although the possibility of introducing legislation to provide this has been discussed.

In **Portugal** the law provides a variety of paid leave entitlements for family reasons, including leave for the marriage of the employee (11 days) and sickness of a close relative (two days at a time).

In **Spain**, employees are entitled to paid time off for family reasons, including leave for the father at the birth of a child (two days, or four days if travel is involved), for the marriage of the employee (15 days), for serious illness or death of a close relative (two days, or four if travel is involved), and for moving (one day). Unpaid leave is available to either mothers or fathers to care for a child up to the age of three, and a shorter workday (with proportionate loss of earnings) is an option for workers who, as legal guardians, are responsible for the care of a child under age six.

In the **United Kingdom**, workers have no general statutory rights to time off for family reasons such as birth, marriage or death in the family, and there are no statutory provisions for parental leave in cases such as a child's illness. Workers must make their own arrangements with their employers through collective bargaining or must find substitute care for their children when they are sick.

The planned economies [66]

In the planned economies of Eastern Europe, women are generally expected to be in the work force, and parental and family leave provisions reflect this. In most of these countries, 80 percent or more of adult women work outside their homes. (In Canada, in 1986, 55 percent of all women were in the work force.)[67] However, in many of the planned economies, care of children is still largely considered to be the responsibility of women. Although parental and family leave is said to be available to fathers as well as mothers, in many cases, fathers may claim the leave only if the mother is not present or is ill or institutionalized.

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[66] Information presented in this section is based largely on a series of personal interviews with heads of delegations attending the United Nations Economic Commission for Europe seminar on The Economic Role of Women in the ECE Region, held in Vienna in October 1984. Specific sources will be named as and where relevant.

[67] Statistics Canada, *The Labour Force*, December 1986, Table 56.

Many of the planned economies are concerned about low fertility rates, and maternity or parental benefits often increase in generosity the larger the family size. Mothers with large families may be entitled to longer periods of annual leave, for example, depending on how many children they have. And maternity leaves may increase in length with the birth of second and subsequent children. Leave to care for children who are ill may also be more generous the more children a woman has.

Family responsibility leave policies of some of the planned economies are reviewed below.

Bulgaria [68]

Insured workers are entitled to up to 10 days paid leave a year to care for family members (other than children under 16) who are ill, or to accompany them to medical appointments or for treatment in another region or outside the country.

Parents who must care for children up to the age of 16, if they are sick, or accompany them to medical appointments or treatment in another region or outside the country are entitled to 60 days off between them each year (shared in whatever way they wish). Paid leave is also available to care for children suffering from infectious diseases, newborn infants who must remain in hospital, and children in quarantine, for as long as the condition lasts. This leave (as well as any leave taken to care for family members over the age of 16) does not have to be deducted from the 60-day leave allowance.

For leave to care for children up to the age of nine, benefits are 100 percent of salary. Workers who take leave to care for older children and other family members receive benefits equivalent to the amount of sick pay they would receive if they themselves were ill. Parents may take unpaid leave for longer periods if children are ill for an extended period, and the leave counts towards pensionable service. The leave has been available to fathers since 1973. However, an employee is not entitled to paid family responsibility leave if there is another member of the family who is not employed and who can take care of the family member or child who is ill or must go to a medical appointment or for treatment. And workers are not entitled to take paid leave to care for a family member who could be hospitalized but refuses this option.

Czechoslovakia [69]

Labour force participation rates for women in the childbearing ages in Czechoslovakia range from 80 percent to 90 percent. A mother is entitled to stay home for up to five days at full salary if her child is ill. The five days applies to

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[68] Sources of information: Interview with Mrs. Vesselina Peytcheva, Secretary to the Committee of the Movement of Bulgarian Women; *100 Questions and Answers Concerning Bulgarian Women*, Bulgarian Women's Committee, Sofia, 1983; Milanka Vidova, *La Condition Juridique de la Femme en R.P. de Bulgarie*, Sofia Presse, 1981.

[69] Sources of information: Interview with Mrs. Dagmar Molkova, Deputy Minister of Labour and Social Affairs, Government of Czechoslovakia; Jaroslava Bauerova, *Specific Problems of Female Labour in Czechoslovakia*, transmitted by the Government of Czechoslovakia to the ECE Seminar, Vienna, October 1984, ECE/SEM.6/R.1/ADD.4.

each occurrence and may be extended with the agreement of the union at the employee's place of work.

German Democratic Republic [70]

Because of concern with very low fertility rates, parental leave programs in the German Democratic Republic (GDR) offer better benefits to families who have more children. Leave is available only to women, and those who are shift workers may be entitled to a different number of days than workers who work regular hours.

Until 1984, paid leave to care for children who are ill was available only to single mothers. However, in May 1984, as part of a special policy package of additional social welfare and income security provisions for large families, the leave was extended to married working mothers with three or more children. Where these women are given time off to care for a sick child, they receive 90 percent of their average net earnings for up to two working days for each case of illness.

If the mother must remain absent from work for longer, benefits from the third day on will be equal to the amount of sickness benefit to which the mother would be entitled if she herself were ill. (Sickness benefits are apparently fixed by law in much the same way as minimum wages are set in Canada. Workers who are away from work because of illness are allowed seven weeks of leave at full pay, after which they transfer to sickness benefits).

The total amount of the leave to care for children who are ill is set at eight weeks per calendar year for mothers with up to three children; 10 weeks a year for mothers with four children; and 13 weeks a year for mothers with five or more children.

In "justified cases" these provisions also apply to the father or the grandmother of the child instead of to the mother. As in many of the other planned economies, caring for the children in the GDR is considered very much the mother's responsibility. Fathers (or grandmothers) generally take over only if the mother is incapacitated for some reason. As a 1984 paper from the GDR notes,

> in addition to the well-developed system of pre-school child care facilities, after-school centres, where schoolchildren go in the afternoon, help women to reconcile the demands of job and motherhood.[71]

The GDR has one of the highest rates of female labour force participation in the world, with 89 percent of adult women in paid employment in 1983.[72]

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[70] Sources of information: Interview with Dr. Helga Horz, Head of GDR Delegation to the ECE seminar on the Economic Role of Women in the ECE Region, Vienna, October 1984; *The Employment of Women in the German Democratic Republic*, transmitted by the Government of the GDR to the ECE Seminar, Vienna, October 1984, ECE/SEM.6/R.3/ADD.3; "Gemeisamer Beschlusse", *Neues Deutschland*, May 18, 1984.

[71] *The Employment of Women in the German Democratic Republic*, *supra* note 70, p. 3.

[72] *Ibid.*

Hungary[73]

Hungary also has a very high rate of female labour force participation. A mother who takes time off work to care for a sick child is entitled to benefits for up to three months each year for a child under three and up to one month each year for a child between the ages of three and six. The amount of the benefit is the same as the mother herself would receive if she were ill.

Hungarian policy has recently emphasized the sharing of domestic labour and parenting responsibilities. Parental leave following the birth of a child has been available to fathers since 1982, but it appears that few fathers take the leave. A major reason may be that the benefit level for long-term leave has been very low. Although a worker receives the equivalent of full salary during the 20-week leave period immediately following birth, benefits during the rest of the leave period, which may extend until the child is three years old, are set at a level equivalent to only about one third of the average wage. Hungary was in the process of restructuring its parental leave programs in 1985 and was considering setting extended leave benefits at a percentage of the worker's usual salary instead of at a flat rate.

Presumably, the way in which benefit levels are set would not deter fathers from taking leave to care for a sick child, since for this type of leave they would receive the same amount as if they themselves were ill.

The Soviet Union [74]

The Soviet system provides benefits for mothers who must take time off work to care for a sick child, but full details were not readily available. According to a Soviet Government statement, a number of additional measures have been introduced over the past few years

> to provide women with better conditions for combining motherhood with active participation in public affairs, the organization of leisure hours for the family, and for amenity and cultural services.[75]

Since 1981, working women with two or more children under 12, in addition to the usual maternity benefits and leaves, have been entitled to an additional three days of paid leave each year, priority right to annual leave during the summer or at any other time convenient to them, and the right to additional unpaid leave of up to two weeks each year for child care.

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[73] Sources of information: Interview with Mrs. Vera Vandor, Member, Foreign Relations Committee, National Council of Hungarian Women; "The Position of the Working Woman in Hungary", statement by the Hungarian delegation to the ECE Seminar, Vienna, October 1984.

[74] Source of information: *The Equality of Women in the USSR*, The Implementation in the USSR of the Provisions of the Convention on the Elimination of All Forms of Discrimination Against Women, Moscow, 1983; *Explanatory Memorandum to the Reply of the Soviet Government to the United Nations Questionnaire in Connection with the World Conference to Review the Achievements of the United Nations Decade for Women*, presented to the ECE Seminar, Vienna, October 1984, ECE/SEM.6/R.1/ADD.10.

[75] Explanatory Memorandum, *supra* note 74, p. 5.

A 1984 government statement indicated the intention, prior to 1985, to increase the length of leave granted to care for sick children to 14 days. There was no indication of the length of leave before then. During the five-year plan covering the years 1986-1990, it was expected that the duration of paid pregnancy leave for working women would be extended to 70 days. (Working women were previously entitled to eight weeks fully paid leave before the birth of a child and eight weeks leave after. Presumably the 70 days leave would replace the previous 56 days after childbirth.) Plans also called for extending child care leave until the child's second birthday. (Previously, partially paid leave was available until the child was one year old, and unpaid leave until it reached the age of eighteen months).

Despite references in government statements to the "equal parental rights and duties" of mothers and fathers, it appears that leave to care for sick children is available only to mothers. This view is reflected in the fact that, "to increase the free time available to working mothers", steps were being taken to extend the system of a part-time working day or part-time working week for women, including flexible hours of work, particularly at plants and production establishments employing predominantly female labour.[76]

Other countries

Other countries outside the main groupings described above have implemented statutory provisions for leave for employees with family responsibilities, but the United States is notable among the industrialized countries for having no national policies or programs on parental leave or leave for employees with family responsibilities.

In **Austria,** short-term paid leave of between one and six days per year is available for women or men who must take time off work to care for family members who are ill.[77] Austrian government documents refer to the goal of shared parenting,

> according to which the woman and the man fulfil their family obligations together and therefore have the same opportunities to organize their occupational lives.[78]

The **United States** has no national system of maternity or parental leave or benefits, and there is no federal legislation on maternity protection. The federal Civil Rights Act of 1964 leaves such legislation to state authorities, and only six states have any legislation relating to maternity or parental leaves.

Even this legislation has recently been challenged in the courts as giving special treatment to pregnant women. In a January 1987 decision, however, the United States Supreme Court upheld California's law requiring employers to give

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[76] *Ibid.*

[77] Austrian Federal Ministry for Social Affairs, *Austrian Report* in accordance with OECD Framework MAS/WP 6(81)1, *Review of Policies for Equality of Opportunity*, 1981, p. 19.

[78] *National Report*, transmitted by the Government of Austria to the ECE Seminar, Vienna, October 1984, ECE/SEM.6/R.1/Add.8

up to four months of unpaid leave to a pregnant woman – the same as that available for other workers who are ill enough to qualify for disability insurance – and to keep her job open until she returns to work. The woman's employer, a California bank, had asked the court to strike down the law on the grounds that it discriminates in favour of pregnant women and against men and non-pregnant women.[79]

The general approach to maternity and parental leaves in the United States has been to treat pregnancy as a disability. Legislation in California, Hawaii, New Jersey, New York, Rhode Island, and Puerto Rico states that employers must carry disability insurance and must provide the same universal disability coverage for pregnancy and childbirth as they do for other conditions. At the federal level, the 1978 Pregnancy Discrimination Act provides that "women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes including receipt of benefits under fringe benefit programs as other persons not so affected but similar in their ability or inability to work". In other words, where an employer chooses to have disability coverage for employees, pregnancy must be included along with other "disabilities".

United States federal government agencies, responding to a questionnaire from the Sub-Committee on Civil Service, chaired by Representative Patricia Schroeder, indicated that while there is no official government-wide policy for federal public servants in the United States, the practices of most agencies are remarkably similar. If any leave is given at all, it is at the discretion of each individual supervisor. The Office of Personnel Management has issued guidelines on maternity benefits for federal public servants, but there is no separate statutory "maternity" leave category in the federal government. Any absence for maternity is to be taken as sick leave, annual leave, or leave without pay.[80]

Kamerman (1986) notes that

> despite high and growing labour force participation rates for women during the prime child bearing years, and for women throughout pregnancy and soon after childbirth, the U. S. remains out of step and a laggard among the advanced industrialized countries in the development of maternity and parenting benefits. The U. S. is among the few countries still providing no national cash sickness benefits, no national health insurance benefits, no national maternity or parenting benefits, and no national policy mandating job-protected leaves at the time of childbirth.[81]

Congress has been considering a parental and medical leave bill (H.R. 925 (previously H.R.4300)), which would provide parents with four months of unpaid job-protected leave to care for a newborn, a newly adopted or seriously ill child, or a dependent parent. It would also provide all workers with a six-month unpaid

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[79] *California Federal Savings and Loan v. Guerra*, reported in *The Washington Post*, October 9, 1986, and The Gazette, January 17, 1987.

[80] *Parental and Medical Leave: H.R. 4300 Briefing Paper*, Office of Representative Patricia Schroeder, Congress of the United States, House of Representatives, July 17, 1986.

[81] Kamerman (1986) *supra* note 59.

leave for any serious illness that prevents them from working. (At present, federal law does not require employers to offer temporary medical leave for any employees for any reason. Workers who are ill have no statutory right to leave and there is no uniform policy that provides reasonable job security for these workers.)

According to a 1986 briefing paper,

> H.R.4300 is necessary to respond to the lack of agreement in the states about maternity policies and to address the new realities of working parents. Both mothers and fathers will be able to take a period of leave from their jobs in order to participate in the early care of newborn or newly-adopted children or to attend to a son, daughter, mother, or father with a serious health condition.
>
> Furthermore, H.R.4300 will provide job protection for all workers, assuring them that if they are struck by a sudden illness or if they have a temporarily disabling accident, they will be able to return to their jobs.
>
> H.R. 4300 is a positive response to a demographic revolution and the important social and economic realities which underpin it.[82]

The Family and Medical Leave Act 1987 would cover all employees employed for 500 hours or three consecutive months, whichever occurs earlier. It would apply to employers employing 15 or more employees and cover each geographically separate facility of an employer where 15 or more employees work. (Facilities are geographically separate if they are more than 200 miles apart.) The specific provisions for unpaid family leave are as follows

- Up to 18 weeks over a 24-month period upon the birth or adoption of a child or upon the serious health condition of a dependent child or parent.

- Leave may be taken on a reduced-hour basis, not to exceed 36 work weeks and scheduled so as not to unduly disrupt the employer's operations.

- Either the employer or the employee may substitute other paid leave for part of the unpaid leave.

- Leave for the birth or adoption of a child must be taken within one year of the birth or placement.

- Leave upon the serious health condition of a dependent child or parent may be taken intermittently when medically necessary.

- If the need for leave is foreseeable and it is medically feasible to do so, leave must be scheduled so as to accommodate the employer.

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[82] *Supra* note 80.

• If the need for leave is foreseeable, the employee shall provide reasonable notice.[83]

While the Bill focuses on statutory provisions for leave immediately following the birth or adoption of a child, it is clear that such leave might also be used by employees who must leave work temporarily to care for a child who is ill or for a dependent parent. It appears, however, that what is envisaged is not the kind of family responsibility leave of a few days each year which forms the basis for the present study, but perhaps a longer, once-only leave where a close family member is seriously ill.

[83] Report for H.R. 925 *The Family and Medical Leave Act of 1987*, Legi-slate Report for the 100th Congress, February 17, 1988.

V. LEAVE POLICIES IN CANADA

Although there is no statutory right in any Canadian jurisdiction for leave for employees with family responsibilities (with the exceptions noted in the previous section) some Canadian workers benefit from such leaves, either because they are provided for in their collective agreements or because employers have adopted policies allowing such leave.

As mentioned earlier, for the purposes of this study, special surveys of both employers and trade unions were conducted to determine the availability of family responsibility leave to Canadian employees. (In an earlier section of this paper, we reviewed the survey results on the attitudes to family responsibility leave and positions taken by both employers and employees).

In addition, we surveyed the data banks of collective agreements maintained by Labour Canada and provincial departments of labour, as well as other sources, to establish the extent to which clauses providing for family responsibility leave are incorporated into collective agreements and formal or informal employer policies. The results of those investigations are summarized here.

Collective agreements

Information on the provisions of Canadian collective agreements was obtained from the data banks of federal and provincial departments of labour and directly from trade unions themselves.

Departments of labour

Collective agreements covering workers under both federal and provincial labour codes are collected and analyzed by Labour Canada and by most provincial ministries of labour. In each case, the data collected refer to agreements in both federal and provincial jurisdictions. For example, Labour Canada's data bank includes collective agreements for employers that come under provincial employment standards legislation, and data collected by provincial governments may include agreements for employers covered by the Canada Labour Code. All jurisdictions except the territorial governments were contacted for this study.[84]

Only five provinces conduct a systematic analysis of the collective agreements covering employees in their jurisdictions. In Ontario, Manitoba, Saskatchewan, Alberta, and British Columbia, data on the various provisions of the agreements are available. While family responsibility leave, as we have defined it for this study, is not one of the provisions classified in the data, most provinces have information on the number of agreements that contain clauses providing for leave for illness in the family, which is probably the major element of family responsibility leave.

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[84] Details of their responses will be found in Appendix I.

Although data from the provinces are not strictly comparable since there are differences in types of agreements analyzed and sample selection methods, the following observations can be made.[85]

1) In the provinces in Central and Atlantic Canada, about 10 percent of collective agreements, on average, include provisions for family responsibility leave. The figure is deceptive, however, in that it does not indicate what percentage of workers are covered. In Ontario, for example, only 25 percent of workers had family illness provisions in their contracts. But in the provinces of British Columbia, Alberta, Saskatchewan and Manitoba, between 31 percent (in Manitoba) and 60 percent (in Saskatchewan and Alberta) of workers had such provisions.

It is possible that the Ontario rate appears so much lower because Ontario is still in the process of coding agreements onto a new system. At the time of writing, its analysis included only those agreements covering 200 or more employees in the following sectors: municipal, health care, provincial employment, and utilities. It does not yet include most employees under federal jurisdiction or in the federal public service (where employees have been entitled to family responsibility leave under their master agreement since 1984).

2) Information is available by industrial sector in only three provinces: British Columbia, Manitoba, and Ontario. In B.C. and Ontario, the great majority of workers with family illness provisions in their contracts are found in the public sector. They are roughly evenly distributed among local government, health and education, and community services.

This does not hold true for Manitoba, where the highest percentage of workers with this leave provision are found in the service sector. However, the difference may be accounted for by the way Manitoba classifies its agreements. Service industry agreements include those covering school support staff, hospital and health care institutions staff, and university personnel, all of whom may be included in the public sector in other jurisdictions. As well, Manitoba data exclude collective agreements falling under federal jurisdiction and agreements between teachers and school boards.

3) The Canadian Auto Workers agreement with General Motors in Ontario appears to be the largest single private sector contract that provides for family illness leave.

4) Although relevant data are sketchy, it appears that the majority of family leave provisions specify between two and five days per year for that purpose.

5) In a significant proportion of agreements in those provinces where such a breakdown is made (Ontario, Saskatchewan, and British Columbia), family illness leave is deducted from the employee's own sick leave benefits. (The range is

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[85] These observations do not include collective agreements in Prince Edward Island, Quebec, or Newfoundland, since these provinces have no systematic analysis of their agreements. Researchers working in the New Brunswick and Nova Scotia ministries of labour provided some information on these provinces, although there is no systematic analysis of agreements there.

from 35 percent to 44 percent of all agreements with family illness provisions.) Manitoba's system of coding agreements separates out only those agreements with provisions that allow employees to use their own accumulated sick leave with pay to attend to the needs of a sick relative who resides with the employee.

6) Ontario is the only province which codes agreements by male/female membership. Its data show that agreements with family illness provisions cover far more men (51 200) than women (9 672). Again, the Canadian Auto Workers contract and the CUPE contract with Ontario Hydro account for the majority of these workers.

In addition to information from the provincial ministries of labour, Labour Canada also provided an analysis of almost 1 000 collective agreements covering 200 or more employees in its data bank. A new coding system allows it to identify agreements containing provisions for "family illness leave", which is a reasonable proxy for family responsibility leave as we have defined it for this study.

About 23 percent of the agreements in the data bank included provisions for leave for illness in the family; most often the leave was paid. Details were as follows:

Table 1
Provisions in collective agreements – Labour Canada, May 1987

Illness in the family

	Agreements		Employees	
	Number	Percent	Number	Percent
Paid	191	20.1	626 485	29.8
Part paid	1	0.1	1 125	0.1
Unpaid	16	1.7	79 120	3.8
Unknown paid or unpaid	11	1.2	15 600	0.7
No provision	731	76.9	1 377 687	65.6
Total	950	100.0	2 100 917	100.0

Source: Labour Canada, Bureau of Labour Information, May 1987, unpublished data.

Other information from agreements in Labour Canada's data bank is contained in a study of maternity and parental benefits undertaken by Christopher Church in August 1986 for the Women's Bureau.[86] Church examined the wording of provisions in a sample of agreements drawn from those which had already been pre-selected because they contained some reference to "maternity benefits".

[86] Christopher Church, *Maternity and Parental Benefits in Canadian Collective Agreements*, prepared for the Women's Bureau, Labour Canada, August 1986 (unpublished).

Of all agreements with maternity leave provisions (700 out of 960 agreements on file), he found that only 9 percent included provision for leave to attend to family needs, such as illness, school, or medical and dental appointments. (Bereavement leave is not included as a family responsibility.) Leave for family responsibility is generally from one to five days, most being two days. Fully paid leave is provided in 93 percent of the cases, and 13 percent ensure that the employer decides whether the request is valid. A typical clause is that found in an agreement between the Government of Canada and the Professional Institute of the Public Service (effective until January 1, 1985), which provided that

> at its discretion, the employer may grant leave with pay: ...up to 1/2 day... for an appointment to take a dependent family member for medical or dental appointments, or for appointments with school authorities; ...up to 2 consecutive days... for the temporary care of a sick member of the employee's family.[87]

Church observed that certain general trends can be seen in the appearance of these benefits and restrictions. Paternity and adoption leave clauses are slightly more common in agreements with SUB plans (Supplemental Unemployment Benefit plans, registered with Canada Employment and Immigration Commission, whereby the employer tops up maternity benefits payable though the UI program), as well as in those with longer terms of leave. Family responsibility leave and extended child care leave are more common with maternity clauses that contain provisions for longer leave.

In his sample of 166 agreements, Church included a wide range of unions and industries. He found that benefits such as family responsibility leave were evenly distributed among the sample, with no special concentration in any one sector.

Survey of trade unions

For the purposes of this study, a questionnaire was mailed to officers of the 30 largest trade unions, selected from Labour Canada's *Directory of Labour Organizations in Canada*. Telephone interviews were conducted to supplement the responses to the questionnaire. Responses were received from 18 unions. One union, the National Union of Provincial Government Employees, sent details of contracts negotiated by its five different affiliates, giving us information from a total of 22 unions.

Details of the responses, as well as the wording of the questionnaire and a list of unions contacted, will be found in Appendix II.

The results of the survey indicated that, among organized labour, federal and provincial public servants are most likely to have access to paid family responsibility leave. Private sector workers are much less likely to have provisions for this kind of leave in their contacts.

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[87] *Ibid.* p. 10.

Provincial employees in British Columbia, Newfoundland, Nova Scotia, Prince Edward Island, and Ontario all have between two and 10 days a year, which may be used as family responsibility leave. In some cases, the leave is specified as solely for family care needs; in others, it covers a range of personal reasons for time off.

In the private sector, family responsibility leave is not commonly provided. A few unions, including the Communications and Electrical Workers and the United Food and Commercial Workers, have some workers (ranging from 13 percent to 50 percent of their membership) who may take paid leave for family responsibilities, although in two cases the leave is deducted from the employee's own sick leave.

The membership of the public service unions averages between 45 percent and 50 percent female. The membership of the private sector unions mentioned earlier averages one third female. In the predominantly male unions, there are very few provisions for family-related leave, other than in the case of the death of a family member. A notable exception is the Canadian Auto Workers, which is 90 percent male but has three days personal leave in its agreements.[88]

Employer policies

In order to determine the personnel policies and practices of employers in Canada, we conducted a telephone survey of managers of personnel or human resources of the 35 largest private sector employers (by number of employees), selected according to rankings of Canadian corporations published by *Canadian Business* in June 1986 ("Canada's Top 500 Companies") and the *Financial Post* in the summer of 1986 ("The Financial Post 500"). The list was representative of different sectors of the economy, including banks, transportation companies, manufacturing, retail trade, mining, and utilities. Some Crown corporations were included in the list. The largest employer of the 35 had 123 000 employees, the smallest had 20 000. Responses were obtained from 22 of those selected.

Following an explanation of "family responsibility leave", employers were asked a number of specific questions in relation to such leave, and they were also asked to comment in general terms on the issue. (The detailed questionnaire and list of companies contacted are reproduced in Appendix III.)

None of the companies contacted had any formal policies or procedures for family responsibility leave, although recognition of the concept was high. Respondents generally did not perceive leave for family responsibilities as having been an issue for management in the past or being likely to become one in the near future. This finding is remarkable, given the major demographic changes that were outlined earlier in this paper. It is also in marked contrast to other countries such as the United States, where considerable attention is being focused on workers with family responsibilities.

The Conference Board's recent report on corporations and families, for example, indicates U.S. corporations are increasingly turning their attention to

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[88] See Appendix II.

policies to help workers to combine paid employment with family responsibilities. Indeed, it was reported in that study that

> discussions with human resource executives in the United States leave little doubt that new patterns in family structure and work-family relationships are having a profound impact on corporate personnel policies and practices.[89]

Nevertheless, representatives of employers in our survey felt their companies had no plans for developing specific procedures to govern leave for family responsibilities in the immediate or foreseeable future. This finding is surprising, since it implies major Canadian employers feel there will not even be a need to develop such policies in the near future – a view that demonstrates that employers may not be aware of the demographic changes that have taken place.

Respondents reported that two types of arrangements are in operation. We have termed these "semi-formal" (that is, those involving another type of leave already in place) and "informal" (those operating on an ad hoc, by-request basis.) Semi-formal leaves are usually paid, and informal leaves may be either paid or unpaid.

The findings of the survey were as follows:

1. Semi-formal leaves – (that is leave involving another kind of leave already in place) 38.1 percent of employers reported this type of arrangement.

a) Wide sick leave options – the company makes official recognition that the employee's sick leave may be used for things other than the employee's own illness (e.g., that of a child or spouse). This may be referred to as "personal leave", and 19 percent of employers reported they had it.

b) Narrow sick leave option – sick leave is for the employee only, but vacation leave might be used for care of child or spouse; 19 percent had this option. One respondent reported problems with the long-term disability plan if employees used their own sick leave for other purposes.

2. Informal – leave for family responsibilities is granted at the discretion of the employee's immediate supervisor, both in terms of allowing the time to be taken and whether the time would be paid or unpaid; 52.4 percent of respondents had this option.

The remaining respondents demonstrate the range in corporate attitudes toward leave for family responsibilities. In one case, the employee would be expected to either make up the time off with overtime or use vacation time. This respondent said that family responsibilities are the employee's and not the company's problem. In another case, there were no specific arrangements for family responsibility leave, and employees could receive paid time off for anything from a few hours to a few days. This respondent stated it was an employee-oriented company that believed "job commitment was two-way and returned two-fold".

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[89] *Supra* note 21, p.v.

As to whether the leave would be paid or unpaid, the main consideration seems to be the duration of the leave or length of time needed. For medical appointments, if only a few hours were needed, paid time off was nearly always available. Such leave would be at the discretion of the employee's immediate supervisor. For short periods of time off – say one or two days – some form of paid leave was usually available, ranging from simply making it available with no strings attached to requiring that the employee "pay back" the time off by working extra hours at some point.

For long-term leave – that is leave of more than a few days at a time – no employers reported paid leave to be available unless an employee was entitled to vacation time, which could be used instead. Individuals requesting a leave of absence without pay would be judged on a case-by-case basis.

More than 76 percent of respondents to the survey indicated that employees could use other kinds of leave for family emergencies. Another 14 percent said this was not permitted, and 9.5 percent were not sure what was allowed. Most respondents reported that employees do not often ask for leave for family responsibilities, but several did not know how frequent such requests were.

The lack of formalized arrangements for family responsibility leave raises a number of concerns.

- Many of the respondents mentioned the fact that employees may use their own vacation entitlement to attend to family responsibilities. If this is a frequent practice, employees may end up with little personal vacation time. This may be particularly true of women, who are usually the main family caregivers and therefore most likely to have to take time off in a family emergency.

- The fact that most employers leave the granting of family responsibility leave to the discretion of the immediate supervisor puts employees at the mercy of their supervisors and could lead to unequal treatment.

- If an employee must be absent for regular appointments – such as for time to take a family member to therapy sessions – there may be difficulties, since such absences were often mentioned by employer respondents as not permitted or not covered under a personnel policy.

- Despite widespread recognition among respondents of the concept of leave for family responsibilities, the respondents reported that employees do not request such leave very often. Employers may have interpreted the lack of requests for leave as evidence that there is no need to implement leave policies. It may well be, however, that because there is no right to the leave or no formal policy allowing for it, employees are afraid to ask for time off.

Given the fact that so many employees, women and men, do have family responsibilities, it is probably safe to assume that most employees are taking other kinds of leave, such as their own vacation or sick time, when a family emergency arises.

- Despite the fact that questions in the survey were gender neutral, employer respondents consistently assumed that our inquiries referred to female employees. It appears that few employers have considered the possibility that male employees might need time off for family responsibilities.

VI. OPTIONS FOR FAMILY RESPONSIBILITY LEAVE

Most Canadian workers do not have the right to take time off for family responsibilities. Such leave is not provided for in any of the labour codes and it appears in very few collective agreements. None of the private sector employers contacted for this study had any formal policy on family responsibility leave. Although most said they would give an employee a day or two off for family emergencies if asked to do so, they also said few employees ask for this kind of leave. None of the employers contacted considered this would be an important policy issue in the near future.

Yet it is obvious that many workers – men as well as women – need time off from time to time to deal with a family emergency such as a medical appointment for a dependent family member, the illness of a child or of the child's usual caregiver, appointments with a child's teacher, or unexpected temporary needs of an elderly or disabled family member. It is also obvious that workers are taking time off for these reasons.

How employees cope with family responsibilities

How are employees dealing with the problem? In many cases, they must use their own sick leave credits or vacation time. Often this practice is tacitly permitted by the employer, and sometimes it is even specifically provided for in the collective agreement.

The New York-based Conference Board reported that,

> although many human resource representatives recognize that their employees may occasionally have to be absent because of an illness affecting a child or other family member, very few firms appear to address this issue as a specific problem. Vacation time or personal holidays, some suggest, are an adequate cushion for such emergencies. Others, however, acknowledge that workers are sometimes using their own sick leave when there is an illness in the family. And, although they are disturbed by this deceptive practice, they appear either uncertain about ways to handle such situations or unwilling to take preventive measures.[90]

Is this informal system working? What are the implications of allowing it to continue? The current arrangements for family responsibility leave – or rather the lack of them – raise some important concerns.

- **Employee reluctance to ask for time off**

Most employers surveyed said they allowed employees to take leave for family responsibilities as we have defined it for this study, but that this is generally left to the discretion of the employee's immediate supervisor. In some cases, however, employees may decide to use their own sick leave entitlement or vacation rather than risk the possibility of a refusal from their supervisor. After all, an employee who is refused time off to deal with an emergency situation at home may then have no alternative but to defy the supervisor, take the time off,

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[90] *Supra* note 21, p. 33.

and risk disciplinary action. This is undoubtedly why employers say they get few requests for family responsibility leave.

The reluctance to ask for emergency leave and risk being turned down may be particularly true of mothers who may need to take a day or two off when a child or the child's usual caregiver is ill. Family responsibilities still fall more often on mothers than on fathers. But many women in the work force are in low-level jobs with little job security. This may make it even more difficult for women to ask for time away from work to attend to a child's needs. They may also fear that requests for temporary leave may only reinforce stereotypical views about women's lack of commitment to paid employment or their inability to combine paid employment with family responsibilities, undermining their opportunities for advancement.

- **Inconsistency in the application of leave policies**

Without any clearly established policy on family responsibility leave, or without any specific right of employees to take it, some supervisors may exercise their discretion in favour of the employee, while others may not. Whether a particular employee is able to take family responsibility leave may then depend on the personal relationship between the employee and the supervisor and on the degree of sympathy or understanding the supervisor has for the family responsibilities of the individual employee. An employer whose policies (or lack of them) allow for leave to be provided in this way may find that uneven application of the policy creates morale problems among employees who feel they have not been treated fairly and may eventually have a negative impact on productivity.

- **Penalizing workers with family responsibilities**

Arrangements for employees to use their own sick leave or vacation time for family responsibilities, whether these arrangements are formal or informal, in effect penalize employees with young children and those with elderly or disabled dependants who may need emergency care or attention from time to time. An employee who has had to use her or his own sick leave entitlement or vacation time to attend to some other family member may subsequently be unable to claim the same number of sick leave days for her or his own illness or have the same amount of vacation as other employees who have no dependents.

- **The erosion of vacation and sick leave for women**

The lack of a separate provision for family responsibility leave may eventually erode the provisions for sick leave and vacations that employers have traditionally provided for their employees. Indeed, labour standards legislation protects the right of employees to a certain number of days vacation each year. Employees who must use their own vacation time to deal with family emergencies may eventually receive less vacation for themselves than is provided in the statutes.

Since women are still generally expected to carry the major burden of responsibility for other family members, even when they themselves are in paid employment, it may well be that women will be disproportionately affected if the present situation continues.

In some respects, they could face a double burden. Women in the paid work force, who often also have to work long hours in the home to care for other family members, may work longer hours in total (if both paid and unpaid work are considered) but may effectively have less entitlement to their own personal sick leave or vacation than their male colleagues, who are not generally expected to take time off work if some other member of the family requires emergency care. Such penalties are hardly consistent with society's commitment to the full and equal integration of women into national social and economic life.

Is society responsible?

There may be those who would argue that deciding to have children or to accept the responsibility of caring for an elderly or disabled family member is a personal choice in which society in general has no part. If the result is that those who choose to undertake these responsibilities end up with less vacation or less sick leave than other members of society, then this is the penalty they must pay for making that choice.

Surely, however, it is in the interests of society as a whole that people continue to bear and care for children. Unless some members of society choose to do this, society itself will not continue. The same arguments may be made in respect to those who care for the elderly and the disabled. As we saw earlier in this paper, private care of the elderly and the disabled will become increasingly important as the elderly account for a greater percentage of the total population and as the movement toward deinstitutionalization of the elderly and the disabled increases. That being so, it surely cannot be in the interests of society to penalize those of its members who are willing to undertake the responsibility of caring for other members of society who are unable to care for themselves.

Canada, along with many other advanced industrialized societies, has already largely accepted that children are a societal responsibility. Mandatory public education is free for all children, for example, and a statutory right to maternity and parental leave is provided through the Canada Labour Code and in the statutes of all provincial jurisdictions in Canada. Unemployment insurance, which is a national program, incorporates maternity benefits so that women workers who must take time off for childbearing have some financial protection. All these initiatives are evidence of a commitment to children and families as a societal responsibility and not just a private choice.

A 1981 task force that studied the Unemployment Insurance (UI) program commented on the evolution of UI maternity benefits, from the replacement of income for mothers who were physically incapacitated as a result of childbirth to the recognition that mothers must spend some time with their newborn children. To return to a strict physical incapacity basis for maternity benefits, said the task force,

> would constitute a significant step backwards in social policy. In a period in which women's labour force participation is increasing steadily, such a change would greatly reduce the income protection capacity of UI as it applies to working women.[91]

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[91] Employment and Immigration Canada, *Unemployment Insurance in the 1980s*, Report of the Task Force on Unemployment Insurance, July 1981, p. 70.

The task force recommended streamlining the maternity benefits program to make it more accessible to women workers. The changes, it said,

> will recognize the increasing labour market contribution of women, and will constitute a major step forward, both in simplifying the maternity provisions themselves and in strengthening the income protection capacity of the UI program as a whole.[92]

Giving employees the right to take time off in the event of some family emergency, such as those we have included in the definition of family responsibility leave, would thus be consistent with other national policies that recognize the contributions to society of parents and of caregivers to the elderly and disabled and would ensure that those who undertake this important work on behalf of society would not be penalized as a result.

Employer opposition to legislated leaves

Employers and employer organizations have expressed opposition to legislating a statutory provision for family responsibility leave. They believe there is more flexibility in the current system. If an employee needs 10 days off, for example, the supervisor might exercise discretion and grant the leave; if only one day is needed, then only one is taken. With a statutory provision for a specific number of days leave, employers argue, the employee would be limited to no more than that number. As well, it is claimed, employees who are given the right to a certain number of days off per year for family responsibilities will take that number of days off, whether they need them or not. This could increase the cost to employers.

While there may be some merit in these arguments, they must be weighed against the need for employees to have some guarantee they will have the right to family responsibility leave when they need it and not be dependent on the whim of the immediate supervisor. In particular, there must be some acknowledgement of the fact that requiring (or tacitly allowing) an employee to use her or his own sick leave or vacation entitlement for family responsibilities may effectively penalize women workers, who are still expected to be the main family caregivers. In addition, if the right to family responsibility leave were legislated, there would be nothing to prevent an employer from retaining flexibility in special cases by granting an employee more than the legislated maximum number of family responsibility leave days off, if circumstances warranted it, in the way that employers claim they now do.

As to the claim that employees would take more days off than they now do if there were a statutory right to leave, data on the Swedish leave system, referred to earlier in this report, indicate that, in cases where employees have a statutory right to a high number of days off each year for family responsibilities (in Sweden, employees are allowed up to 60 days per child a year), much shorter amounts of time are actually taken on average. Parents with children under five take an average of nine days a year; those with children between nine and twelve average only four days a year.[93]

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[92] *Ibid.* p. 71.

[93] Information from *Social Insurance Statistics: Fact 1986*, National Social Insurance Board, Sweden, Mathematical-Statistical Division, December 1986, pp. 24 and 25.

Even under the existing system, employers generally have no way of knowing whether an employee who takes one or two days of her or his vacation time or a day off because of "illness" is actually off work because of some kind of family emergency (such as a child's illness) which is not provided for in the employer's personnel policies or in the collective agreement. A recognition that workers with family responsibilities may need time off over and above their own sick leave or vacation time would be in the interest of employers. It would ensure that adequate personal vacation time and sick leave is provided for these workers on the same basis as all other workers, enabling them to maintain and perhaps increase their productivity. It could also improve employee morale and potentially reduce absenteeism. Workers with family responsibilities, as we have seen, now constitute the majority of all prime age employees.

The length of the leave

Employers have expressed concerns about employees taking long and frequent periods off if they were given the right to family responsibility leave. It is perhaps important to emphasize here that an employee who takes more than two or three days sick leave is usually required to produce a doctor's certificate attesting to illness or inability to work. An employee might also be required to produce a certificate if she or he wished to take more than a few days off to care for some other family member. The need for extended leave for family responsibilities is unlikely to occur on a regular or predictable basis in the way that short-term family emergencies do. Nevertheless, it may be feasible to guarantee a longer period of unpaid leave by statute.

Employer concerns about granting the right to family responsibility leave may be misplaced. Family responsibility leave, as it is understood in the context of this paper, is leave to deal with short-term family emergencies and would amount to only one or two days at a time. In fact, provisions for such leave in the federal public service permit a maximum of five days in any fiscal year, but not more than two consecutive days may be taken at any one time for the temporary care of a sick family member. The intention is that, if the family member will require long-term care, the employee will be able to use the days off to make arrangements for such care.

Should it be left to collective bargaining?

Although few unions have negotiated family responsibility leave clauses in their collective agreements, it might be argued that unions are free to bargain for such clauses if they feel the need for them. While that may be true, it is also important to note that few women in the work force (and a minority of male workers too) are members of trade unions. Trade unions have led the way in developing other measures such as maternity benefits, parental leave, shorter working hours, and minimum wages, which have subsequently been adopted as national policies or programs accessible to all workers. But ultimately national programs must be adopted if all workers are to benefit. Even if all unions were to insist on family responsibility leave clauses in their contracts and employers were to agree to these demands, the majority of women (and even the majority of men) who are not members of trade unions would not benefit.

If we accept a societal responsibility to acknowledge the contribution of workers with family responsibilities, both to the economy and to society, a strong case can be made for implementing a statutory right to leave, rather than leaving the development of this measure to collective bargaining. The best approach would probably be for government to set minimum standards for leave in the labour codes, and then for unions to augment that standard for their members through the collective bargaining process. This is the approach that has been taken with maternity benefits, for instance, where some unions have negotiated an employer top-up to UI maternity benefits that results in fully paid maternity or parental leave for members.

Statutory provisions for family responsibility leave

Statutory provisions for family responsibility leave would protect employees, would remove the penalty that now exists for workers (and especially women workers) with family responsibilities, and could result in benefits to the employer in the form of improved employee morale, enhanced productivity and, perhaps, reduced absenteeism.

If workers are to be given the right to family responsibility leave, how might the policy be implemented? Should the leave be paid or unpaid? What would various options cost? (The question of costs is discussed in the next section.)

If the right to leave is to be guaranteed by statute, provision could be made in the Canada Labour Code and in the employment standards legislation of the various provinces. The leave could be paid or unpaid. Models for both types of leave are currently to be found in labour standards legislation. For example, all jurisdictions provide for unpaid maternity or parental leave following the birth of a child, and some provinces also provide for paternity and/or adoption leave. Family responsibility leave might be seen as as adjunct to this type of leave, and provisions could be made as an extension to the types of parental leave already covered under the legislation. Although maternity and parental leave provisions are generally expressed in terms of weeks of leave before or after the birth of a child, paternity leave, where it exists, may grant the father of a child the right to be absent from work without pay for a period of one or two days on the birth or adoption of the child (as in Quebec). This type of provision might be used as a model for family responsibility leave. It could be made clear that such leave would be available not only with respect to dependent children, but also if the employee had to attend to the needs of an elderly or disabled family member.

An alternative would be to treat family responsibility leave in the same way as annual vacations with pay or general holidays. In this case, the employee would be entitled to a certain number of paid days off each year for family responsibilities, which would be defined in the legislation. Under the Canada Labour Code, for example, nine general holidays are to be observed as paid holidays each year. The Code also provides that, under certain conditions, an alternative holiday may be substituted for any of the nine holidays specified. A similar provision could be instituted, whereby an employee was entitled to up to five days (or more) off with pay each year for family responsibilities, providing the employee met the usual conditions of employment specified in the legislation.

But holidays acknowledged in the legislation are specific days when all employees are generally entitled to a day off with pay, or premium pay in lieu of

time off. Days off for family responsibilities would be taken at the request of an employee when some emergency situation arose. Such leave might be more appropriately dealt with under the vacations with pay sections. These provisions of the Code give employees the right to an annual vacation with pay of at least two weeks after each year of employment and three weeks after six years. Vacation pay is 4 percent of wages for the year in which the employee establishes a claim to a vacation and six per cent of annual earnings after six years of employment. Additional provisions for paid leave for family responsibilities might also be modelled on this section of the Code.

For vacations with pay, the employer may determine the time when each employee may take annual vacation, within certain limits laid down by the law. For family responsibility leave, this condition would have to be modified, perhaps to provide that family responsibility leave must be granted by the employer when the employee makes a reasonable request for the leave.

If a statutory right to unpaid leave is provided, workers with family responsibilities will still be penalized, since they will be expected to forego wages or salary if they need to take time off for family responsibilities. Consideration might then be given to providing income replacement through the UI program for workers taking advantage of their statutory right to leave. An alternative would be to assume that unions would negotiate some form of compensation for their members who take advantage of the leave provisions and that non-union employees would not have access to this.

We will explore some of these options further in the next section.

VII. THE COST OF IMPLEMENTING A STATUTORY RIGHT TO LEAVE

As we have seen, many employers claim they already allow employees to take short periods of leave (perhaps one or two days at a time) for family responsibilities. If the right to such leave were guaranteed by statute, what additional costs would be involved? To establish a cost estimate, a number of questions would have to be answered.

1) How many days leave would be provided by statute?

2) What would the take-up rate be?

3) Would women be more likely to take the leave than men?

4) Would the leave be paid or unpaid?

5) If unpaid leave is provided, would it be accompanied by other measures to provide income replacement for workers on leave, such as through the UI program?

Costs could vary considerably according to the answers to these questions as well as the particular combination of assumptions selected. For this reason, accurate cost estimates are difficult to make. However, we may approach the problem by looking at similar types of leave and cost estimates that could give some indication of the likely cost of providing a statutory right to family responsibility leave. To establish the likely parameters of the program, we will first look at the five questions in more detail.

1) The length of the leave

The only comprehensive Canadian model we have for family responsibility leave is that provided by the federal public service. As we discussed earlier, employees of the federal government have the right to a maximum of five days in any fiscal year, but not more than two consecutive days. The limitation on the number of consecutive days may have some bearing on costs. Employers might be less likely to have to find a replacement for a worker who is away for only one or two days. As well, a limitation on the number of consecutive days that may be taken reinforces the rationale for the leave as time for the employee to deal with the emergency and to make other arrangements if the family situation is likely to require long-term attention.

Recommendations, such as those made by the Task Force on Child Care (noted earlier in this report), have suggested five days leave, although some organizations (such as the Canadian Labour Congress) recommend 10 days per year.

Some consideration could be given to varying the number of days according to the number of dependents a worker has. The Swedish leave program, for example, provides for 60 days paid leave per child per year until the child is 12 years old. The length of the leave and the age limitation would probably not be acceptable in the Canadian context.

As an initial step, a statutory right to leave could provide for five days per year per child or other dependent such as elderly or disabled family members living with the employee. This would set a minimum standard in the statute.

Unions could then bargain for longer leaves, and employers could also adopt policies providing for longer leaves if they wished to do so.

It must be emphasized, however, that Swedish experience (discussed below) indicates that between four and nine days per child may more closely reflect the length of time most workers with family responsibilities may need. Thus, five days per dependant per year should probably be regarded as only the first step in the implementation of a statutory right to this kind of leave in Canada.

2) Take-up rates for family responsibility leave

Some estimate of the potential take-up rate for family responsibility leave would be necessary before any attempt could be made to estimate the cost of legislating the right to such leave. Again, accurate estimates are very difficult. There is little or no information about the number of employees who have elderly or disabled family members for whom they are responsible. The incidence of illness among dependent children and the frequency with which parents may have to attend to other needs, such as attendance at the child's school or taking the child to medical appointments, is also unknown.

The federal public service has no information about take-up of its family responsibility leave, since the provisions are apparently too recent for reliable data to be available. The clerical and regulatory group has had five family leave days in their collective agreements since 1980, but most other components of the federal public service have had such leave for only a few years, and some only since the master agreement with the Public Service Alliance of Canada was signed in 1986. (Data on the clerical group alone apparently cannot be released because of bargaining position security).

Treasury Board officials expressed the view that as employees become aware that they actually have the right to family leave days, use of the provision increases. In the opinion of one official, the full five days are commonly used in units that have had the provision for several years, but less use of the leave is made in units that have only had the provision for a year or two.

As we noted earlier, some indication of potential take-up rates is available from Swedish data.[94] A parent's cash benefit for temporary child care was introduced in 1974 and has been altered on several occasions since then. Between 1974 and 1976, every family was entitled to not more than 10 days annually in order to care for a sick child. From 1977 onwards, the benefit became payable for up to 12 days per annum to a family with one child, 15 days to a family with two children and 18 days to families with three or more children.

The provisions that have been in force since 1980 make compensation payable for up to 60 days per child per year to both parents together.

Situations qualifying for compensation are: illness or infection sustained by the child or the person normally caring for the child and visits to preventive child care institutions. The child must be under 12 years old (the maximum age before 1980 was 10 years). Since July 1985, children under 16 are covered by the

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[94] *Ibid.*

insurance in some cases. As well, the father is entitled to compensation for up to 10 days in connection with childbirth ("10-day benefit"). Since 1986, parents have been entitled to two more benefit days per annum for children aged four to 12. The days are to be used for visits to the child's kindergarten or school.

The data show that parents of children aged one to four years use the greatest number of benefit days – nine days a year on average. The rate of usage among parents of children aged nine to 12 is significantly lower – on average, only four days a year. For all children, the average number of days taken was seven days.

Two points emerge from these data that may be relevant in the Canadian context.

i) Even though parents are entitled to up to 60 days leave per child per year, the average number of days benefit claimed was between four and nine.

ii) While a number of Canadian proposals for family responsibility leave seem to focus on five days leave a year for emergency care of family members, including children and other relatives, Swedish experience points to an average of four to nine days leave for the emergency care of children only. (Some groups and organizations in Canada have recommended a statutory provision for ten days family responsibility leave.)

3) Would women be more likely than men to take the leave?

Because there is still such a significant gap between the wages of female and male employees, the gender of employees taking the proposed leave would also have some bearing on costs. If a predominance of higher-earning male workers take leave, the cost to an employer who must forego one or two days of that employee's labour, or hire a replacement worker while the employee is on leave, would generally be greater than if the majority of those taking the leave were female.

Societal attitudes, discussed earlier in this paper, indicate that probably a majority of those who would take family responsibility leave would be women. The Swedish experience, however, is also instructive in this respect. The use of family responsibility leave by men is much higher than that of the better-known parental leave program. In 1984, for example, about 22 percent of fathers took advantage of their right to paid parental leave during the child's first year of life. Data for 1985 show that almost 44 percent of those who took advantage of the parent's cash benefit for temporary child care were fathers of the children concerned.[95] Among married parents, men took an average 5.3 benefit days in 1985, and women took 6.8 days leave.

4) Would the leave be paid or unpaid?

As we noted earlier in this paper, both paid and unpaid leave might be provided for by statute. Unpaid leave would still impose a penalty on workers with

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[95] *Ibid.* pp. 23 and 24.

family responsibilities since they would be expected to take time off without pay. If the right to unpaid leave is granted, however, replacement income might be provided through the UI program.

From the employer's point of view, both paid and unpaid leave could result in additional costs being incurred if, as employers predict, a statutory right to family responsibility leave resulted in employees taking more time off than they now do.

If the statutory provision were for unpaid leave, employer costs would be the loss of the employee's labour during the time off. If the absent employee had to be replaced, probably no significant additional costs would be incurred, because the wages normally paid to the absent employee would be paid to the replacement worker instead, and labour would be supplied to meet the employer's needs. There might, however, be some administrative cost to the employer of finding a substitute worker.

If the statutory provision were for paid leave, the employer's costs would be wages paid during the time the employee did not work, and possibly also the cost of replacing the absent employee.

Whether workers who take one or two days off would have to be replaced would depend on the nature of the employee's occupation. In some work situations, other workers might take on the absent employee's work load for one or two days. In other cases, such as a production line or teaching occupation, a substitute for the absent employee might have to be found. The difficulty of estimating what percentage of absent employees would have to be replaced also complicates any attempt to estimate the cost of implementing family responsibility leave.

5) Unpaid leave with UI benefits

If statutory leave provisions were for unpaid leave, employees who took the leave would suffer a financial penalty if employers decided to withhold pay for the leave days taken. The possibility of providing a benefit payment through the special benefits sections of the Unemployment Insurance program has been raised. Family responsibility benefits might become part of a parental leave benefits program – although this might then exclude the possibility of benefits for employees who take leave to care for elderly or disabled family members.

As mentioned earlier, the Advisory Council on Employment and Immigration has suggested that UI sickness benefits might also be made available to employees required to care for sick dependents.[96] This proposal might also be too restrictive, in that it would not allow for benefits to be paid when employees take time off for other family reasons, such as medical or school appointments. As well, it is difficult to see how such provisions could be accomplished within the current structure of the UI program.

The existing program provides for a maximum of 15 weeks of sickness benefits to qualified applicants, and no benefits are payable during the first two weeks of the employee's illness. (A similar structure of benefits is in effect for

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[96] *Supra* note 41., p. 32.

maternity and adoption benefits.) The employee must produce a medical certificate to qualify for payments. These requirements would clearly be inappropriate for a leave program in which the employee would claim only one or two days off at a time.

Even if the two-week waiting period for UI special benefits were dropped, as several reports have recommended,[97] the payment of a few days of benefits for family responsibility leave through UI might be difficult. From the point of view of program administration, the cost of processing small, very short-term claims might prove prohibitive.

Use of the UI program to provide replacement income for workers who take unpaid leave might be much more appropriate for workers who need to take extended periods of leave to attend to family responsibilities. Extended leave would most likely be necessary when workers must take time off to care for a family member with a long-term illness or disability.

The UI program could be adapted to provide family responsibility leave benefits as another form of special benefit similar to the existing maternity, adoption and sickness benefits. Employees could be required to provide a doctor's certificate on behalf of the family member whose long-term illness required the employee to take an extended period of time off work. The other terms and conditions now applied to special benefits under the UI program, such as qualifying periods, entrance requirements and so on, could apply in the same way to family responsibility leave benefits.

The cost of leave provisions

It would be necessary to make a series of different assumptions and combinations of assumptions about the factors discussed above in order to estimate the total cost of implementing a statutory right to family responsibility leave. Since there are no reliable data on which to base many of those assumptions, any estimate derived would likely be subject to such a wide margin of error that it would not be particularly useful. For these reasons, we have not attempted to calculate total costs in this paper. Nor have we attempted any estimate for providing family responsibility leave benefits through the UI program.

For reasons already discussed, this program as it is now constituted would not be an appropriate vehicle for the payment of benefits for one or two days at a time. The potential for using UI to pay benefits for employees who might want to take a long-term leave in the case of family illness was also referred to earlier. Further work would be necessary to establish credible estimates of potential take-up rates for this type of leave before any meaningful estimate of costs to the UI program could be developed.

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[97] See, for example, the report of the House of Commons Standing Committee on Labour, Employment and Immigration (the Hawkes Committee) on Unemployment Insurance, recommendation 7. *House of Commons Reports*, Second Session of the Thirty-third Parliament, 1986-87, Issue No. 28, March 17, 1987, p. 28:5.

However, further research might be undertaken to establish a more reliable basis on which to make an estimate of the cost of short-term family responsibility leave. For example, take-up rates of family responsibility leave in the federal public service might be examined when the data become available. Analysis of the gender breakdown of those who take the leave would also be relevant, as would information on whether replacement workers were hired, the cost of doing this, and other pertinent information.

Data are available on other types of personal leave and these data may give some indication of the cost of implementing statutory rights to family responsibility leave. The methodology used to estimate the cost of this form of indirect labour compensation[98] generally uses one of five commonly accepted basic techniques, (or a combination of all or some of these).[99]

1) Total annual cost – that is the total amount spent by a company over a period of time (usually a year) for a given benefit. This figure usually excludes any administrative costs.

2) Cost per employee per year – found by dividing the total cost of the benefits by some average number of workers over the period in question or by the specific number of workers covered by the benefit.

3) Percent of payroll, which is found for the particular benefit in question by dividing the total cost of providing the benefit by the total payroll.

4) Cents per hour is the term used to describe the money requested by the union per hour per employee.

5) Cost per hour is found by dividing the total cost of the benefit by total productive hours worked by all employees during the period.

The Pay Research Bureau, attached to the Public Service Staff Relations Board, collects information on rates of pay, employee earnings, conditions of employment, and related practices from both the federal public service and the private sector. Every two years, the bureau conducts a comprehensive survey of employee benefits and working conditions, usually covering an average of 200 organizations.

Data are collected on "personal and parental leave" – that is leave granted to an employee for time off during regular working days for death or illness in the family, marriage, the birth or adoption of a child, domestic emergencies, union business, or when circumstances not directly attributable to the employee prevent him or her from reporting for work.[100]

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98 Glenn Kendall, *Costing of Selected Labour Standards: An Exploratory Study*, Economic and Industrial Relations Research Branch, Labour Canada, January 1982, p. 3.

99 Stephen J. Holoviak, *Costing Labour Contracts and Judging their Financial Impact*, Praeger Special Studies, New York: 1984, p. 21.

100 Pay Research Bureau, information supplied by Louise Trépanier, Projet Officer, Information Requests.

Within the category, the incidence of paid marriage leave, paid maternity leave, and paid leave for illness in the family are shown separately. It is the last category that most closely resembles family responsibility leave as we have defined it for this paper.

The 1986 survey indicated that 60 percent of management and professional employees and 56 percent of office employees receive between one and six paid days off per year in the case of illness in the family. However, only 25 percent of non-office workers receive any such leave. Of that 25 percent, almost half receive one to three paid days as a non-discretionary right, and the rest receive such leave at the employer's discretion.

In the case of both management and office staff, almost half of the employees receiving paid leave for illness in the family do so at the employer's discretion. The majority of the rest receive one to three paid days automatically when they need them.[101] (Details are shown in Table I of Appendix IV.)

Unfortunately, however, detailed cost data are not shown for each separate category of paid personal leave. (It should be noted that the cost of paid maternity leave, which is included in the general category of paid personal leave, refers to the cost of top-ups to UI maternity benefits which some unions have negotiated with their employers. According to 1986 data,[102] between 19 percent and 36 percent of employees have these kinds of benefits. For most employees, benefits paid while they are on maternity leave would consist of UI maternity benefits, the cost of which is excluded from these data.)

Data for 1984 indicated that over 76 percent of employees covered by the sample were entitled to paid personal leave. For those establishments which had this benefit and which actually spent money on it in 1984, the cost was 0.5 percent of straight time payroll, equivalent to $153 per employee per year.[103] (Further details are shown in Table 7 of Appendix IV.)

Given that these benefits include types of leave that would not be included in family responsibility leave, the cost does not appear to be very great. Paid personal leave, in fact, was one of the least expensive of all employee benefits provided by employers in the sample. In contrast, paid holidays represented 4.3 percent of straight time payroll for the typical employer, amounting to $1,182 per employee per year; while paid sick leave accounted for 2.1 percent of straight time payroll, and represented an outlay of $691 per employee per year. (See Table 7, Appendix IV.) It is worth noting that, if paid family responsibility leave were available, the use of paid sick leave for family responsibilities (discussed earlier in this paper) might decline, and thus the cost to employers of this type of leave might also be reduced.

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[101] Pay Research Bureau, *Employee Benefits and Working Conditions Canada 1986*, Highlights of Studies on Prevalence and Characteristics, December 1986, p. 115.

[102] *Ibid.*, p. 114 and Appendix IV, Table 2.

[103] Pay Research Bureau, *Employee Benefits and Working Conditions, Canada 1984*, December 1984, Table 30-A, p. 154.

Data for 1986 indicate a median expenditure on paid leave for personal reasons of 0.6 percent of straight time payroll, or $207 per employee per year for office employees; 0.3 percent of straight time payroll or $87 per employee per year for non-office employees; and 0.3 percent of straight time payroll, or $86 per employee per year for all employees covered by the survey. (See Table 9, Appendix IV.)

It should be emphasized that these data include establishments reporting actual or estimated data. They exclude establishments which did not have the benefit; establishments which, having the benefit, did not incur any expenditure; and establishments where the benefit was present but data were not available. In 1986, for example, 44 establishments were included in the cost estimates of paid personal leave for office employees. Of these, nine were based on actual data and 35 were estimated. In six establishments, no expenditure on this type of leave occurred; in 21, expenditure data were not available; and in one establishment, the benefit was not provided. (See Table 9, Appendix IV.)

It must be noted that the Pay Research Bureau data are based on a rather limited sample and that there is a rather low response rate from employers. Cost estimates supplied by employers may vary in accuracy because of varying record- keeping practices.[104] In spite of these limitations, the data may give some indication of the costs other employers might incur if they were required to grant family responsibility leave to their employees. Among office employees, for example, the cost of paid leave for personal reasons ranged from 0.2 percent of straight time payroll, or $60 per year per employee, to 1.0 percent of straight time payroll, or $362 per employee per year. Among non-office employees, the range was from 0.1 percent of straight time payroll, or $32 per employee per year, to 1.0 percent of straight time payroll, or $253 per employee per year. (See Table 7, Appendix IV.)

Private surveys[105] of benefit costs also indicate that paid time off for personal reasons, is one of the least costly of all employee benefits. As a percentage of gross annual payroll, costs ranged between 0.1 percent and 0.8 percent for leave including bereavement, jury duty, and "other reasons". While it is not assured, it can be assumed that a proportion of "other reasons" includes illness in the family and some elements of family responsibility leave as we have defined it for this paper. Expressed in terms of dollars per employee, costs ranged from a low of $31 to a high of $243; and in cents per hour, costs ranged from 2 cents to 14 cents.

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[104] Interview with Pay Research Bureau staff, September 1987.

[105] *Employee Benefit Costs in Canada*, 1986, Stevenson, Kellogg, Ernst and Whinney.

VIII. CONCLUSIONS

It seems inevitable that the issue of leave for employees with family responsibilities will be raised increasingly now that so many workers, both women and men, must combine their family responsibilities with paid employment. As this report has indicated, to date there appears to be more concern, among groups representing employees, about the need for such leave for parents who may have to tend to the emergency care of dependent children than for workers who may have elderly or disabled family members needing emergency care from time to time. As indicated at the beginning of this paper, however, more and more employees may also have the responsibility of caring for elderly or disabled family members, and they may need time off occasionally to deal with their responsibilities to these dependants.

Many employers have apparently not yet recognized the extent of these needs or that they may increase in the future. Although employers claim they have informal arrangements for employees who need one or two days off for family reasons, these policies may not be uniformly applied and they are generally at the discretion of the employee's immediate supervisor. As a result, employees frequently use their own sick leave or vacation entitlement for such purposes, and this may even be formally recognized in collective agreements or in employer personnel policies.

The continuation of such ad hoc and informal arrangements penalizes workers with family responsibilities and erodes their own vacation and sick leave entitlements. Such penalties cannot be regarded as appropriate in a society that in many other ways has accepted a societal responsibility for children, the elderly, and the disabled. In addition, a continuation of the current arrangements may be to the detriment of employers, who may be faced with increased absenteeism, declining employee morale, and lower productivity as workers – both women and men – attempt to balance paid employment with family responsibilities.

As we have seen, since women generally are still expected to be the main family caregivers, it is likely to be women who must take days off from time to time for family responsibilities, and it may well be that personal sick leave and vacation provisions for many women in the work force are being seriously eroded by current practices on family responsibility leave. Since women workers often carry the double burden of paid work and family responsibilities, working long hours to do so, the reduction of their own personal sick leave and vacation time is particularly punitive.

Few unions have yet included family responsibility leave provisions in their collective bargaining negotiations, although many support the concept. But even if all unions were able to get such clauses in their contracts, employees who are not union members – and that is the majority of Canadian workers – would not have access to family responsibility leave. Enacting statutory provisions for such leave, as many groups have now recommended, would recognize that the majority of workers have family responsibilities. Such provisions may be particularly important for women workers, who probably have the most to lose if the current informal and ad hoc system is allowed to continue.

APPENDIX I

Analysis of collective agreements in data banks of provincial and federal departments of labour

Prince Edward Island

There was no analysis of collective agreements in this province for provisions related to family responsibility leave.

New Brunswick

There was no analysis of collective agreements for family responsibility leave provisions. According to an analyst, only a very small percentage (perhaps between 5 percent and 10 percent) of the 500 to 600 agreements on file would have any kind of coverage for family illness.

Nova Scotia

No analysis of relevant provisions was available. A researcher estimated that perhaps between 10 percent and 15 percent of the 650 agreements on file have any provisions that might cover family illness. We were also told that more and more agreements provide for leave in emergency situations such as fire, floods, or home emergencies. Such provisions usually allow for two days emergency leave per year, and the leave could probably be used to cover other emergencies such as family illness.

Quebec

No systematic analysis of collective agreements in this jurisdiction was available, although a number of agreements do provide for family responsibility leave.

Ontario

Ontario has the most sophisticated data analysis system of all the provinces. Of the 1 714 agreements it had analyzed up to October 1986, 1 540 (or 90 percent of the agreements on file) had no provision for family illness leave. These agreements represented 74 percent of all employees covered under all the collective agreements filed with the Ministry of Labour.

Of the 174 agreements with some provisions for family illness leave, almost half (44 percent) provide one to 10 days for family illness, charged to the employee's sick leave fund. Within that category, most allow for five days leave per year. The next most common provision is one to 10 days of paid leave (in addition to sick leave) for family illness. This accounts for another 33 percent of agreements with family illness leave provisions. The most common number of days in this category is three.

Seven more agreements provide unpaid leave for family illness, 14 provide paid leave within the more generic "special leave" category, and 16 provide some leave for family illness, though it was impossible to determine the specific nature of the leave provision.

With the notable exception of the Canadian Auto Workers' (CAW) contract, covering 26 000 employees at General Motors of Canada, (1 500 of whom are female) all of the agreements with family illness provisions cover public sector workers. Within the public sector, agreements providing for family illness leave seem to be fairly evenly spread among the following industrial classifications: local government; health and welfare services; and education and related services. The unions that most commonly represent these workers are the Canadian Union of Public Employees (CUPE), the Ontario Police Association, and the Ontario Nurses Association, with CUPE representing by far the most.

The vast majority of workers who have family leave provisions in their contracts are male (51 200), and a small minority are female (9 672). This is accounted for partly by the huge size of the bargaining unit represented in the CAW-General Motors contract and by another contract between CUPE and Ontario Hydro representing 15 000 electric, gas and water workers, of whom 12 000 are male.

Manitoba

Manitoba's collective agreement analysis does not include agreements falling under federal jurisdiction. Agreements between teachers and school boards are also excluded. (However, agreements involving school support staff, such as clerical and maintenance workers and bus drivers, are included.)

The analysis includes a code for "sick family member care leave", which covers provisions by which an employee is allowed to utilize accumulated sick leave with pay for the purpose of attending to a sick relative who resides with the employee. There may be stipulations that the person to be cared for is a member of the immediate family and that no one else is available to care for that person. A typical clause might provide that,

> in the case of a confining or incapacitating illness of a member of the immediate family, where no one at home other than the employee can provide for the needs of the ill person, the employer may grant up to three days leave with pay to be charged against accumulated sick leave.[107]

Out of 542 agreements in the province's data bank in 1986, 161 (or 30 percent), covering just over 20 000 employees (31 percent of employees), provided for leave to care for a sick family member. The percentage of agreements providing for this kind of leave and the number of employees covered varied by industrial sector. In public administration, 18 percent of the agreements, covering only 3 percent of employees, provided this leave; in the service sector, 52 percent of agreements, covering 64 percent of employees, had the provision; in manufacturing, 2 percent of agreements, covering only 3 percent of employees; in finance, 43 percent of agreements, but only 24 percent of employees; in trade, 16 percent of agreements, covering 4 percent of employees; in transportation, 15 percent of agreements, covering 47 percent of employees; in mining, no agreements had the provision; and in construction, 6 percent of agreements had it, but only two employees were covered. (One agreement out of 17 analyzed provided for the leave.)

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[107] Information from Manitoba Ministry of Labour, Research and Planning, October 1986.

Saskatchewan

Saskatchewan codes about 150 of the 400 or so agreements it has on file. Coded agreements include all sizes of bargaining units and all industrial sectors, with the exception of the construction industry, teachers' agreements, and agreements falling under the Canada Labour Code. The provisions in which family illness leave are included are "paid compassionate leave", "personal leave for good reason (unpaid)", and "paid bereavement leave". Within these categories, statistics were available up to 1985 only.

Virtually all employees in the 1985 study (98 percent) had access to paid bereavement leave.[108] Three days paid leave for bereavement or serious illness in the family is the norm, although four or five days is becoming more popular. In some cases, more leave is available for a spouse or child. Numerous agreements now include common-law relationships.

The data on paid compassionate leave show that 58 percent of employees (not contracts) had compassionate leave provisions in the 1985 coded agreements. However, only 35 percent had paid leave, and the remaining 23 percent had the right to unpaid leave. According to a Saskatchewan government publication,[109] in most cases. the paid leave is deducted from sick leave credits. The usual allowable reasons are related to household or domestic emergencies, including moving.

Although it is not specified in the publication, we were told that paid compassionate leave usually allows for three days per year, with five being the maximum. According to an analyst in Saskatchewan Labour, however, agreements are tending to include more restrictions on the maximum days per year allowed within this provision.

The right to "personal leave of absence (unpaid) for good reason", which allows leave for long terms, is available to 87 percent of employees in the coded agreements. Some agreements specify the number of months, but most allow indefinite leave.

Alberta

Alberta analyzes a representative sample of 249 out of the 1 217 collective agreements covering 100 or more employees it has on file. The most recent analysis was of agreements available as of November 1985. The agreements cover all industrial sectors but exclude teachers' contracts. There is about equal representation from the public and private sectors.

About 66 percent of the agreements in the sample have no provision for paid leave of absence for personal reasons. These agreements cover 41 percent of employees. Some benefits for family illness, often in conjunction with benefits for moving, citizenship and/or paternity, are provided for in 41 (or 16 percent) of the

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[108] *Non-Wage Provisions in Saskatchewan Collective Agreements,* 1985, Saskatchewan Labour, Policy and Planning Branch, 1985, p. 77.

[109] *Ibid.*

agreements, covering about 57 000 employees. The exact nature of these benefits is not specified.

British Columbia

This province analyzes 181 agreements out of about 500 agreements on file, covering employees in all industrial sectors, including teachers. As in Manitoba, the provision covering leave for family responsibilities is "sick family member care leave". According to the coding manual,

> this field covers provisions where an employee is allowed paid leave to attend to a sick relative living with the employee. There are often stipulations that the person to be cared for be a member of the immediate family (usually defined in the agreement) and perhaps also that no one else is available to care for the sick person. In some cases, the employee may have to use accumulated sick leave for this purpose.[110]

Over 78 percent of the agreements, covering 55 percent of employees in the sample, have no provision for family illness leave. The sample covers 214 000 employees. Of the 40 agreements that provide some coverage, 14 provide an unspecified number of days deducted from sick leave, and 20 provide relevant leave with details not specified.

Information classified by industrial sector indicates that in mining, manufacturing and construction, virtually no family illness leave provisions show up in the sample. This type of leave appears to be concentrated in community, business and personal services, and in public administration. Within those sectors, the majority of agreements stipulate that the leave must be deducted from sick leave. Very few of the agreements analyzed specify the number of days allowed for family illness leave. The few in which numbers are specified are almost equally divided among one, two and three days per year.

British Columbia government employees are covered by three different agreements. According to a personnel officer there, all of the agreements provide an annual limit of 70 hours (10 seven-hour periods) of special leave that covers a number of circumstances, including family illness, medical and dental care, marriage, birth and adoption (paternity), moving, funerals, court appearances, and a child's school needs. We were told an employee may use two days at any one time and needs the employer's approval.

Newfoundland

Newfoundland does not yet have a collective agreement analysis system.

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[110] Province of British Columbia, *Negotiated Working Conditions*, 1986, Ministry of Labour and Consumer Services. ST 21119-3.

APPENDIX II

Union questionnaire

The following questionnaire was mailed to the 30 largest trade unions.

This questionnaire is designed to collect information about unions' concerns regarding leave for employees with family responsibilities, in cases where a member of the employee's family is ill or requires the employee's attendance for some other reason. The information will be used in a report being prepared by Monica Townson Associates Inc. for the Women's Bureau, Labour Canada, on leave for employees with family responsibilities.

1. Name and address of union and name and position of person completing questionnaire.

2. Approximately what percentage of your members have provisions in their collective agreements for paid leave to meet family commitments?

3. If relevant, please describe the general nature of the provisions.

4. Is it common for your members to be able to use their own sick leave days to care for ill family members?
   Yes
   No
   Please comment.

5. Do any of your members have collective agreement provisions which cover cases of leave to care for sick family members for an extended period of time – that is for more than a few days?
   Yes
   No
   If yes, please describe briefly (or enclose relevant clause).

6. Does your union have a stated policy on family responsibility leave as defined above (not including maternity, paternity or adoption leave)?
   Yes
   No
   If yes, what is it?

7. Is family leave, as defined above, an area of priority for your union in current collective bargaining efforts?
   Yes
   No
   Has it been in past years?
   Yes
   No
   Please explain.

8. Has your union lobbied for any government policies (such as changes in provincial or federal labour codes) that would increase workers' rights to paid or unpaid leave for family responsibilities?
   Yes
   No
   Please explain briefly.

If there are any relevant research or position papers, or speeches by your members pertaining to the area of leave for family responsibilities as defined above, we would appreciate receiving a copy of them with the completed questionnaire.

Thank you for taking the time to assist in this project.

List of Unions Contacted
(Unions with largest membership, 1986)

	Membership 1986 ('000)	Membership 1985 ('000)
1. Canadian Union of Public Employees	304.3	296.0
2. National Union of Provincial Government Employees	254.3	245.0
3. Public Service Alliance of Canada	182.0	181.5
4. United Steelworkers of America	160.0	148.0
5. United Food and Commercial Workers International Union	156.0	146.0
6. International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (now Canadian Auto Workers)	140.0	135.8
7. Fédération des affaires sociales inc.	93.0	93.0
8. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America	91.5	91.5
9. Commission des enseignantes et enseignants des commissions scolaires	75.0	*
10. Service Employees International Union	70.0	70.0
11. International Brotherhood of Electrical Workers	68.6	68.6
12. United Brotherhood of Carpenters and Joiners of America	68.0	73.0
13. International Association of Machinists and Aerospace Workers	58.6	58.6
14. Canadian Paperworkers Union	57.0	63.0
15. International Woodworkers of America	48.0	51.2
16. Labourers' International Union of North America	46.7	51.4
17. Syndicat des fonctionnaires provinciaux du Québec	44.0	55.2
18. Ontario Nurses' Association	42.5	39.2

	Membership 1986 ('000)	Membership 1985 ('000)
19. United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada	40.0	40.3
20. Communications and Electrical Workers of Canada	40.0	35.5
21. Canadian Brotherhood of Railway, Transport and General Workers	39.9	38.2
22. Alberta Teachers' Association	37.4	37.4
23. International Union of Operating Engineers	36.0	37.4
24. Ontario Secondary School Teachers' Federation	35.7	36.3
25. Energy and Chemical Workers Union	35.0	35.0
26. Hotel Employees and Restaurant Employees International Union	32.0	32.0
27. Federation of Women Teachers' Associations of Ontario	31.5	31.4
28. British Columbia Teachers' Federation	30.2	32.7
29. Amalgamated Clothing and Textile Workers Union	30.0	30.0
30. American Federation of Musicians of the United States and Canada	30.0	30.0

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* Previously part of la Centrale de l 'enseignement du Québec.

Source: Labour Canada, *Directory of Labour Organizations in Canada*, 1986, pp. 15-17.

Information received from the survey of trade unions in 1987 is summarized in the table below. (It should be noted that in some cases, family-related leave or extended periods of leave for family responsibilities are at the discretion of the employer, who may grant or deny the leave according to her or his own criteria. Such situations are indicated as "discretionary" in the table.)

Family Responsibility Leave – Trade Union Responses

Percentage of members with F/R leave*	Nature of provisions	Can use own sick leave	Extended F/R leave	Percent of members female
Alberta Teacher s' Federation				
3%	Two days/year max. deducted from sick leave	yes	no	n/a
Amalgamated Clothing and Textile Workers				
0	Not aware of any such clauses	probably do	no	66%
British Columbia Government Employees (NUPGE)				
95%	70 hours special leave for many reasons, including family illness	no unpaid	yes,	50%
Canadian Auto Workers				
90%	3 days personal leave, discretionary	yes	no	10%
Canadian Union of Public Employees				
15%**	may use a max. of 5 accumulated sick leave days per illness	yes	yes	?
Communications and Electrical Workers of Canada				
13%	10 days/year personal leave for any reason, non-discretionary	no	no	36%
Energy and Chemical Workers				
3%-5%	1-2 days paid without pay	no	discretionary	22%
Federation of Women Teachers' Associations of Ontario				
55%	1-5 days/year for family illness, some mention medical/dental appts.	57% of agmts. days deducted from sick leave	discretionary without pay	100%
27%	compassionate leave, covers serious family illness or injury			

**Analysis of contracts not yet completed, so could be more than this.

Percentage of members with F/R leave*	Nature of provisions	Can use own sick leave	Extended F/R leave	Percent of members female
International Association of Machinists and Aerospace Workers				
0	not aware of any such clauses	no	possibly discretionary	13%
International Brotherhood of Electrical Workers				
50%	can use sick leave for care of family members	yes	no	33%
International Union of Operating Engineers (Local 942, P.E.I.)				
	3 days/year for family medical/dental appt 3 days/year each illness; 3-8 days/yr. compassionate leave for serious illness	no	no	n/a
Newfoundland Association of Public Employees				
83%	3 days paid for family illness, medical, dental, school, adoption appts.	no	no	49%
Nova Scotia Government Employees				
90%	care for immediate family living with employee; number of days not specified	yes	no	61%
Ontario Liquor Board Employees				
100%	15 attendance credits/yr. could include family duties	yes	discretionary 1 year	15%
Ontario Secondary School Teachers Federation				
100%	1-2 days, no loss of own sick leave credit	yes	no	35%
under 5%	more than 2 days			
Prince Edward Island Union of Public Sector Employees				
100%	4 days paid leave to meet family commitments, not consecutive without medical certificate	no	yes, unpaid up to 2 years	61%
Public Service Alliance of Canada				
95%	half day for medical/ dental appts. 2 consecutive days max. 5 days/year max.	no	discretionary without pay	45%

Percentage of members with F/R leave*	Nature of provisions	Can use own sick leave	Extended F/R leave	Percent of members female
Syndicat des fonctionnaires provinciaux du Québec				
100%	1 day for serious illness, emergencies, paid	no	no	44%
United Brotherhood of Carpenters and Joiners of America				
0	not aware of any such clauses	no	no	2%
United Food and Commercial Workers				
20%	not specifically F/R leave; Quebec contracts have sick leave which can be used for F/R leave; also leave of absence unpaid	yes	no	n/a
United Steelworkers of America				
1% or less	3-9 days paid for serious family illness or death	no	no	n/a

* Data on the percentage of employees with family responsibility leave are generally based on rough estimates of union officials and may be subject to a rather wide margin of error.

APPENDIX III

Schedule of questions used for telephone interviews with employers

These questions are designed to collect information about policies and opinions on leave for employees with family responsibilities. This leave would be time away from the job, for example, to take a child, disabled or elderly relative to a medical appointment; to care for members of the family during an illness; or to temporarily replace a regular caregiver. Basically, we want to know if you have arrangements for employees to take this kind of leave; if so, how do these arrangements work; and how do you feel about this kind of leave?

1. Do you have a specific policy or procedure covering leave for family responsibilities?
   Yes
   No
   Unsure

2. Are there formal arrangements for leave for family responsibilities?
   Yes
   No
   Unsure

3. Are there informal arrangements for leave for family responsibilities?
   Yes
   No
   Unsure

4. Do you have paid leave for family responsibilities?
   Yes
   No
   Unsure

5. Do you have unpaid leave for family responsibilities?
   Yes
   No
   Unsure

6. If leave for family responsibilities is organized, how many days per year are available?

7. A. Could or do employees use another kind of leave to attend to family responsibilities?
      Yes
      No
      Unsure

   B. If so, could they (or do they) use sick leave; vacation time; leave without pay; accumulated time (i.e. overtime or flextime); other types of leave?

8. In exceptional cases, could (or do) you provide for extended leave for family responsibilities, i.e., more than a few days?
   Yes
   Sometimes
   No
   Not sure

9. On the whole, how often do your employees request leave for family responsibilities?
   Often
   Sometimes
   Never
   Not sure

10. How important do you think leave for family responsibilities is?

1	2	3	4	5	6	7	8	9	10
very important									very unimportant

IF YOU DO NOT HAVE A POLICY OR PROCEDURES COVERING LEAVE FOR FAMILY RESPONSIBILITIES, PLEASE ANSWER THE FOLLOWING QUESTIONS:

11. Has leave for family responsibilities been a management issue for your organization?
    Yes
    No
    Not sure

12. Do you plan to develop a policy or procedures to cover leave for family responsibilities?
    Yes
    No
    Not sure

13. What kind of leave would this be?

Paid?	Yes	No	Not sure
Unpaid?	Yes	No	Not sure

Specific number of days per year?	Yes	No	Not sure
Extended leaves?	Yes	No	Not sure

List of Employers Contacted

Canadian employers ranked by number of employees	Number of employees
1. Canadian Pacific Ltd.	123 000
2. Bell Canada Enterprises	108 300
3. Alcan Aluminium Ltd.	70 000
4. Canada Post Corporation	62 477
5. Imasco Ltd.	63 000
6. Canadian National Railway	61 124
7. George Weston Ltd.	57 000
8. Sears Canada Inc.	52 011
9. McDonald's Restaurants of Canada Ltd.	50 000
10. General Motors of Canada Ltd.	48 106
11. Northern Telecom	46 540
12. Noranda Inc.	45 500
13. Hudson's Bay Co.	39 000
14. Royal Bank of Canada	37 430
15. Canadian Imperial Bank of Commerce	33 587
16. Loblaw Companies (now part of George Weston)	33 343
17. Bank of Montreal	33 281
18. Steinberg Inc.	32 000
19. Ontario Hydro	31 166
20. Ford Motor Co. of Canada	29 700
21. Moore Corporation	27 331
22. Crownx Inc.	26 500
23. F. W. Woolworth Co.	26 000
24. Genstar Corporation	26 000
25. Bank of Nova Scotia	25 753
26. Canada Safeway Ltd.	22 068
27. Air Canada	21 443
28. Société générale de financement du Québec	21 239
29. Confédération des caisses populaires Désjardins du Québec	20 853
30. Anglo-Canadian Telephone Co.	20 832
31. Inco Ltd.	20 828
32. Toronto Dominion Bank	20 381
33. Gulf Canada Corporation	20 350
34. Massey-Ferguson Ltd.	20 262
35. K-Mart Canada Ltd.	20 000

Sources of data: "Canada's Top 500 Companies," *Canadian Business*, Special 1986 Annual, June 1986; "The Financial Post 500," *The Financial Post*, Summer 1986.

APPENDIX IV

Table 1
PAID LEAVE – ILLNESS IN THE FAMILY

Number of Days Granted	Percentage of Employees Covered		
	Management/ Professional	Office	Non-Office
1 day	6.0	4.5	1.5
2 to 2½ days	3.8	7.4	5.0
3 days	4.2	6.5	2.5
5 days	0.5	1.1	0.8
6 days	4.4	3.9	1.2
No maximum specified	0.1	0.1	0.0
Discretionary	37.6	26.4	11.4
Other	0.4	0.4	3.7
Not granted	43.0	49.7	73.9
	100.0	100.0	100.0

Source: Pay Research Bureau, *Employee Benefits and Working Conditions, Canada 1986*, p. 115.

Paid Leave – Domestic Emergencies

This type of leave is granted on either a formal or a discretionary basis to 65.5% of Management/Professional employees, 61.0% of Office employees and 30.5% of Non-Office employees.

Table 2

PAID MATERNITY LEAVE

Paid maternity leave is a benefit which varies from one day to 18 weeks. The Unemployment Insurance Commission permits employers to supplement UIC benefit payment so long as their policy is formalized by means of a Supplemental Unemployment Benefit Plan which is registered with Employment and Immigration Canada. Such plans allow the employer to "top-up" the UIC payments to a maximum of 95% of the employee's regular salary.

PAID MATERNITY LEAVE

Incidence and Characteristics	Percentage of Employees Covered		
	Management/ Professional	Office	Non-Office
– Granted	12.4	11.1	3.5
– Supplemental Unemployment Benefit Plan provided	23.4	16.3	15.3
– Not granted	64.2	72.6	81.2
	100.0	100.0	100.0
Duration and rate of pay when subsidized by employer			
– 6 weeks at 60% to 70% of salary	0.1	0.2	0.2
– 15 weeks at 70% to 75% of salary	1.4	2.0	0.7
– 15 weeks at 95% to 100% of salary	9.5	6.6	0.9
– 18 weeks at 93% of salary	0.3	0.4	0.1
– Other	1.2	2.0	1.6
Duration and rate of pay when subsidized by supplementary unemployment benefit plan			
– 6 weeks at 95% of salary	7.1	2.7	0.8
– 15 weeks at 70% to 95% of salary	6.0	3.7	9.2
– 18 weeks at 85% to 95% of salary	8.4	7.7	3.3
– Other	1.8	2.1	2.0
Not granted	64.2	72.6	81.2
	100.0	100.0	100.0

Source: Pay Research Bureau, *Employee Benefits and Working Conditions, Canada 1986*, p. 114.

Table 3

MEAN ANNUAL EMPLOYER EXPENDITURE BASED ON ESTABLISHMENTS REPORTING ACTUAL AND ESTIMATED DATA* OFFICE CATEGORY 1984

	Employees Covered (% of Sample)	Mean Percent of Straight-Time Payroll	Mean Dollars per Employee/yr
Paid Time Away From Duty			
– Paid holidays	100.0	4.4	1 293
– Paid vacations	100.0	7.2	2 114
– Paid sick leave	84.5	2.3	686
– Paid personal leave	77.3	0.6	176
– Paid rest periods	68.7	4.9	1 391
Pay Supplements			
– Overtime and holiday work pay	93.9	2.2	659
– Shift-work compensation	67.8	0.2	69
Financial Benefits			
– Severance pay	39.2	0.4	119
– Retirement allowances	44.9	1.2	349
Legislated Benefits			
– Workers' Compensation	89.0	1.0	301
– Unemployment Insurance	99.2	1.9	569
– Canada/Quebec Pension Plans	98.4	1.1	320
Group Life Insurance and Related Plans	86.9	0.6	176
Health Insurance Plans			
– Provincial health care**	52.4	0.8	237
– Quebec and Manitoba health insurance***	31.8	2.8	820
– Supplementary health insurance	85.9	0.3	94
– Dental care plans	83.8	0.7	190
Salary Continuation Plans			
– Sickness indemnity insurance	1.5	0.5	136
– Combined sick leave and sickness indemnity	7.5	2.0	539
– Long-term disability insurance	69.0	0.5	151
– Supplementary unemployment insurance	6.0	0.0	15
Private pension plans	84.2	7.4	2 198

* Includes establishments reporting actual or estimated data. Excludes establishments which did not have the benefit, establishments which, having the benefit, did not incur any expenditure, and establishments where the benefit was present but data were not available.

** Provincial health care based on employees residing in B.C., Ontario, and Alberta.

*** Quebec and Manitoba health insurance based only on employees residing in the provinces of Quebec and Manitoba.

Source: Pay Research Bureau, *Employee Benefits and Working Conditions Canada 1984*, pg. 150.

Table 4

MEAN ANNUAL EMPLOYER EXPENDITURE BASED ON PARTICIPATING ESTABLISHMENTS* OFFICE CATEGORY 1984

	Employees Covered (% of Sample)	Mean Percent of Straight-Time Payroll	Mean Dollars per Employee/yr
PAY FOR STRAIGHT-TIME WORKED**	100.0	81.9	24 154
Paid Time Away From Duty			
– Paid holidays	100.0	4.4	1 293
– Paid vacations	100.0	7.2	2 114
– Paid sick leave	93.5	2.1	620
– Paid personal leave	78.8	0.6	172
– Paid rest periods	87.8	3.8	1 088
STRAIGHT-TIME PAY	100.0	100.0	29 441
Pay Supplements			
– Overtime and holiday work pay	96.6	2.2	641
– Shift-work compensation	87.0	0.2	54
Financial Benefits			
– Severance pay	81.8	0.2	57
– Retirement allowances	87.5	0.6	179
GROSS PAY***	100.0	105.4	31 038
Legislated Benefits			
– Workers' Compensation	95.3	0.9	281
– Unemployment Insurance	99.2	1.9	569
– Canada/Quebec Pension Plans	98.4	1.1	320
Group Life Insurance and Related Plans	86.9	0.6	176
Health Insurance Plans			
– Provincial health care****	99.0	0.4	125
– Quebec and Manitoba health care	94.2	0.9	276
– Supplementary health insurance	92.4	0.3	88
– Dental care plans	96.1	0.6	166
Salary Continuation Plans			
– Sickness indemnity insurance	100.0	0.0	2
– Combined sick leave and sickness indemnity	95.6	0.1	43
– Long-term disability insurance	94.5	0.4	110
– Supplementary unemployment insurance	97.2	0.0	1
Private pension plans	88.1	7.1	2 102

* Excluded only are those establishments where the benefit was present but data were not available.

** These figures have been computed by subtracting from straight-time payroll costs the estimated and actual paid time away from duty costs.

*** Not all taxable benefits included in gross payroll costs have been identified on this table.

**** Provincial health care based on all participating establishments including establishments located in provinces which do not levy premiums.

Source: Pay Research Bureau, *Employee Benefits and Working Conditions Canada 1984*, pg. 151.

Table 5

MEAN ANNUAL EMPLOYER EXPENDITURE BASED ON ESTABLISHMENTS REPORTING ACTUAL AND ESTIMATED DATA* NON-OFFICE CATEGORY 1984

	Employees Covered (% of Sample)	Mean Percent of Straight-Time Payroll	Mean Dollars per Employee/yr
Paid Time Away From Duty			
– Paid holidays	99.2	4.2	1 007
– Paid vacations	99.2	7.9	1 872
– Paid sick leave	42.9	2.8	706
– Paid personal leave	68.0	0.5	112
– Paid rest periods	88.5	4.6	1 099
Pay Supplements			
– Overtime and holiday work pay	95.9	8.0	1 907
– Shift-work compensation	95.6	1.4	337
Financial Benefits			
– Severance pay	14.1	0.3	69
– Retirement allowances	16.3	1.5	385
Legislated Benefits			
– Workers' Compensation	94.7	2.0	488
– Unemployment Insurance	98.6	2.4	564
– Canada/Quebec Pension Plans	99.3	1.3	311
Group Life Insurance and Related Plans	88.2	0.5	119
Health Insurance Plans			
– Provincial health care**	51.5	1.4	339
– Quebec and Manitoba health insurance***	24.1	3.0	677
– Supplementary health insurance	80.7	0.6	135
– Dental care plans	82.8	0.8	196
Salary Continuation Plans			
– Sickness indemnity insurance	27.6	1.8	439
– Combined sick leave & sickness indemnity	17.5	4.1	917
– Long-term disability insurance	50.1	0.9	213
– Supplementary unemployment insurance	11.6	1.0	246
Private pension plans	83.3	7.0	1 718

* Includes establishments reporting actual or estimated data. Excludes establishments which did not have the benefit, establishments which, having the benefit did not incur any expenditure and establishments where the benefit was present but data were not available.

** Provincial health care based on employees residing in B.C., Ontario, and Alberta.

*** Quebec and Manitoba Health Insurance based only on employees residing in the provinces of Quebec and Manitoba.

Source: Pay Research Bureau, *Employee Benefits and Working Conditions Canada 1984*, pg. 152.

Table 6

MEAN ANNUAL EMPLOYER EXPENDITURE BASED ON PARTICIPATING ESTABLISHMENTS* NON-OFFICE CATEGORY 1984

	Employees Covered (% of Sample)	Mean Percent of Straight-Time Payroll	Mean Dollars per Employee/yr
PAY FOR STRAIGHT-TIME WORKED**	100.0	81.6	19 572
Paid Time Away From Duty			
– Paid holidays	99.2	4.2	1 007
– Paid vacations	99.2	7.9	1 872
– Paid sick leave	99.7	1.3	304
– Paid personal leave	70.1	0.5	108
– Paid rest periods	95.4	4.3	1 019
STRAIGHT-TIME PAY	100.0	100.0	23 882
Pay Supplements			
– Overtime and Holiday Work Pay	98.3	7.8	1 861
– Shift-Work compensation	97.4	1.4	331
Financial Benefits			
– Severance pay	83.7	0.0	12
– Retirement allowances	86.5	0.3	73
GROSS PAY***	100.0	111.6	26 657
Legislated Benefits			
– Workers' Compensation	94.7	2.0	488
– Unemployment Insurance	98.6	2.4	564
– Canada/Quebec Pension Plans	99.3	1.3	311
Group Life Insurance and Related Plans	89.4	0.5	117
Health Insurance Plans			
– Provincial health care****	98.4	0.7	177
– Quebec and Manitoba health care	85.0	0.8	192
– Supplementary health insurance	90.4	0.5	121
– Dental care plans	96.8	0.7	168
Salary Continuation Plans			
– Sickness indemnity insurance	96.2	0.5	126
– Combined sick leave and sickness indemnity	95.6	0.7	168
– Long-term disability insurance	91.0	0.5	117
– Supplementary unemployment insurance	97.8	0.1	29
Private pension plans	92.7	6.4	1 545

* Excluded only are those establishments where the benefit was present but data were not available.

** These figures have been computed by subtracting from straight-time payroll costs the estimated and actual paid time away from duty costs.

*** Not all taxable benefits included in gross payroll costs have been identified on this table.

**** Provincial health care based on all participating establishments including establishments located in provinces which do not levy premiums.

Source: Pay Research Bureau, *Employee Benefits and Working Conditions Canada 1984*, pg. 153.

Table 7

MEAN ANNUAL EMPLOYER EXPENDITURE BASED ON ESTABLISHMENTS REPORTING ACTUAL AND ESTIMATED DATA* OFFICE AND NON-OFICE COMBINED 1984

	Employees Covered (% of Sample)	Mean Percent of Straight-Time Payroll	Mean Dollars per Employee/yr
Paid Time Away From Duty			
– Paid holidays	99.7	4.3	1 182
– Paid vacations	99.7	7.4	2 020
– Paid sick leave	68.3	2.1	691
– Paid personal leave	73.5	0.5	153
– Paid rest periods	76.4	4.3	1 260
Pay Supplements			
– Overtime and holiday work pay	94.7	4.2	1 150
– Shift-work compensation	78.6	0.6	196
Financial Benefits			
– Severance pay	29.4	0.3	110
– Retirement allowances	33.8	1.1	355
Legislated Benefits			
– Workers' Compensation	91.2	1.4	376
– Unemployment Insurance	99.0	2.1	567
– Canada/Quebec Pension Plans	98.7	1.2	316
Group Life Insurance and Related Plans	87.4	0.5	153
Health Insurance Plans			
– Provincial health care**	52.0	1.0	276
– Quebec and Manitoba health insurance***	28.8	2.8	773
– Supplementary health insurance	83.9	0.4	110
– Dental care plans	83.4	0.7	192
Salary Continuation Plans			
– Sickness indemnity insurance	11.6	1.1	414
– Combined sick leave and sickness indemnity	11.4	2.1	765
– Long-term disability insurance	61.7	0.5	170
– Supplementary unemployment insurance	8.2	0.5	143
Private pension plans	83.9	7.3	2 013

* Includes establishments reporting actual or estimated data. Excludes establishments which did not have the benefit, establishments which, having the benefit did not incur any expenditure and establishments where the benefit was present but data were not available.

** Provincial health care based on employees residing in B.C., Ontario, and Alberta.

*** Quebec and Manitoba health insurance based only on employees residing in the provinces of Quebec and Manitoba.

Source: Pay Research Bureau, *Employee Benefits and Working Conditions Canada 1984*, pg. 154.

Table 8

MEAN ANNUAL EMPLOYER EXPENDITURE BASED ON PARTICIPATING ESTABLISHMENTS* OFFICE AND NON-OFFICE COMBINED 1984

	Employees Covered (% of Sample)	Mean Percent of Straight-Time Payroll	Mean Dollars per Employee/yr
PAY FOR STRAIGHT-TIME WORKED**	100.0	82.2	22 377
Paid Time Away From Duty			
– Paid holidays	99.7	4.3	1 182
– Paid vacations	99.7	7.4	2 020
– Paid sick leave	95.9	1.7	492
– Paid personal leave	75.5	0.5	149
– Paid rest periods	90.8	3.9	1 060
STRAIGHT-TIME PAY	100.0	100.0	27 280
Pay Supplements			
– Overtime and holiday work pay	97.2	4.1	1 120
– Shift-work compensation	91.0	0.6	169
Financial Benefits			
– Severance pay	82.5	0.1	39
– Retirement allowances	87.1	0.5	138
GROSS PAY***	100.0	107.5	29 335
Legislated Benefits			
– Workers' Compensation	95.0	1.3	361
– Unemployment Insurance	99.0	2.1	567
– Canada/Quebec Pension Plans	98.7	1.2	316
Group Life Insurance and Related Plans	87.9	0.5	153
Health Insurance Plans			
– Provincial health care****	98.8	0.5	146
– Quebec and Manitoba health care	90.6	0.9	246
– Supplementary health insurance	91.6	0.4	100
– Dental care plans	96.4	0.6	166
Salary Continuation Plans			
– Sickness indemnity insurance	98.5	0.2	49
– Combined sick leave and sickness indemnity	95.6	0.3	91
– Long-term disability insurance	93.1	0.4	113
– Supplementary unemployment insurance	97.5	0.0	12
Private pension plans	89.9	6.8	1 879

* Excluded only are those establishments where the benefit was present but data were not available.

** These figures have been computed by subtracting from straight-time payroll costs the estimated and actual paid time away from duty costs.

*** Not all taxable benefits included in gross payroll costs have been identified on this table.

**** Provincial health care based on all participating establishments including establishments located in provinces which do not levy premiums.

Source: Pay Research Bureau, *Employee Benefits and Working Conditions Canada 1984*, pg. 155.

Table 9

PAID LEAVE FOR PERSONAL REASONS
ANNUAL EMPLOYER EXPENDITURE – JANUARY 1, 1986

	Coverage Estab.	Employees	Mean	Q1	Median	Q3
OFFICE						
% of straight time payroll	44	63 098	.7	.2	.6	1.0
$ per employee	44	63 098	218	60	207	362
NON-OFFICE						
% of straight time payroll	40	29 142	.6	.1	.3	.7
$ per employee	40	29 142	156	32	87	253
TOTAL						
% of straight time payroll	50	92 240	.6	.2	.3	1.0
$ per employee	50	92 240	198	44	86	331

	Office Estab.	Employees	Non-Office Estab.	Employees
Actual data	9	7 620	11	9 281
Estimated data	35	55 478	29	19 861
No expenditure incurred	6	1 894	2	205
Expenditure not available	21	16 121	18	9 628
No benefit provided	1	35	1	271

Paid personal leave may be granted to an employee for time off during regular working days for death or illness in the family, marriage, the birth or adoption of a child, domestic emergencies union business or when circumstances, not attributable to the employee, prevent him or her from reporting for work.

Source: Pay Research Bureau, *Benefits and Working Conditions, 1986, Volume 2, Expenditures Canada*, pg. 79.

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